No. 1070

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT.

TRANSCRIPT OF RECORD.

THE UNITED STATES OF AMERICA,
Appellant,

vs.

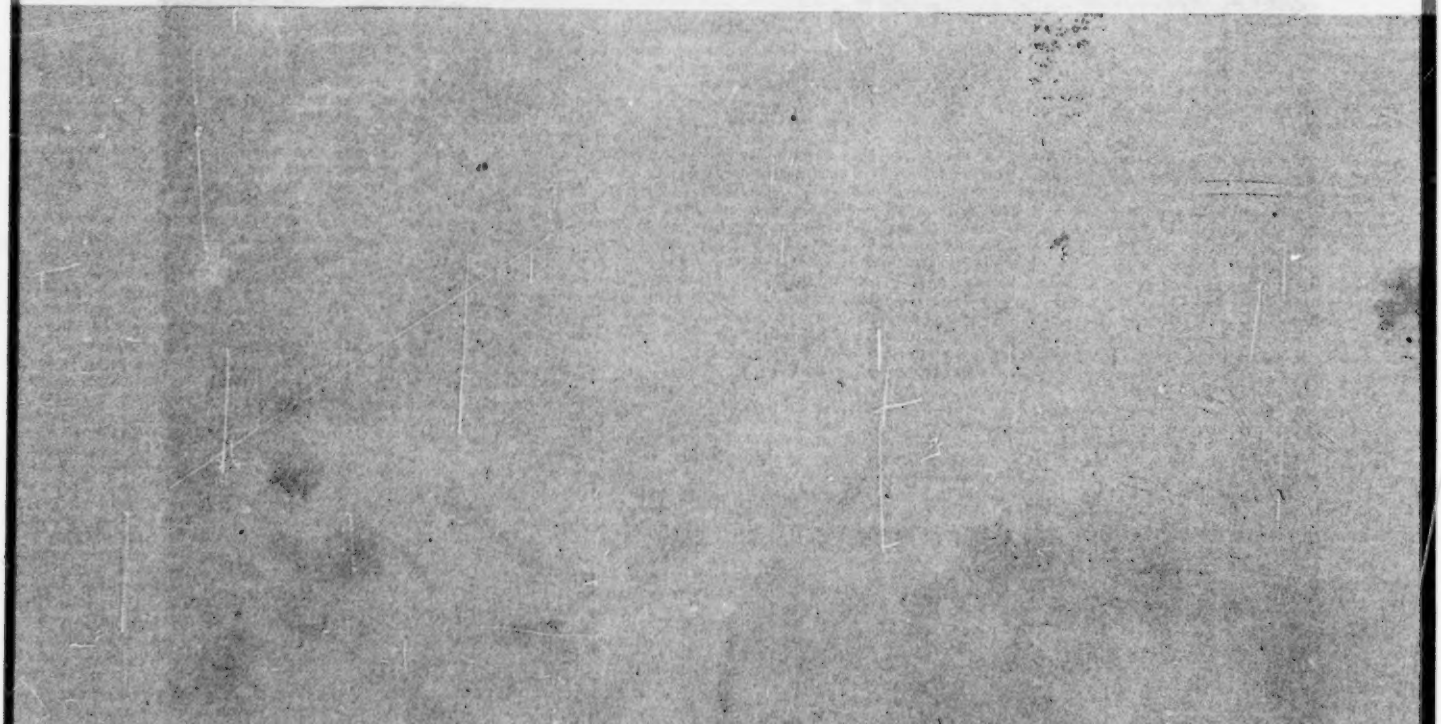
WILLIAM A. CLARK,
Appellee.

PLEADINGS AND INDEX.

Pages 1 to 319, inclusive.

Upon Appeal from the United States Circuit Court for the District of Montana.

The Filmer Brothers Co. Print, 401 Sansome St., S. F.



INDEX TO PLEADINGS.

Page

Amended Answer..... 20

Answer, Amended..... 20

Assignment of Errors..... 69

Bill of Complaint..... 3

Caption..... 3

Certificate, Clerk's, to Judgment-roll..... 68

Certificate, Clerk's, to Transcript..... 318

Citation..... 143

Clerk's Certificate to Judgment-roll..... 68

Clerk's Certificate to Transcript..... 318

Complaint, Bill of..... 3

Complainant's Exhibit No. 1 (Warranty Deed Dated October 27, 1899, Between Frank B. Arey and Hannah V. Arey of Missoula, Montana, and R. M. Cobban of Missoula, Montana)..... 145

Complainant's Exhibit No. 2 (United States Patent for Land Issued to Frank B. Arey)..... 148

Complainant's Exhibit No. 199 (Appointment for Meeting at Room 7, 222 Broadway to Wm. E. Lefley, from R. M. Cobban, Missoula, Montana)..... 151

Complainant's Exhibit No. 200 (Testimony of Mr. Allen Dodd)..... 152

Page

Complainant's Exhibit No. 202 (Telegram to C. L. Griswold Missoula, Montana, Dated June 23, 1899, from R. M. Cobban).... 156

Complainant's Exhibit No. 203 (Receipt for Publishing Final Proof Notice Issued to Stephen Tepper by the "Missoulian")..... 156

Complainant's Exhibit No. 313 (Account of L. A. Wells with the Western Montana National Bank, Missoula, Montana).... 157

Complainant's Exhibit No. 344 (Copy of Advertisement of Cobban & Dinsmore, Missoula, Montana)..... 161

Complainant's Exhibit No. 345 (Transcript Evidence of R. M. Cobban).... 162

Complainant's Exhibit No. 346 (Extract from Regisister of Civil Actions, District Court, in Cause Entitled Griswold vs. Cobban—No. 1886)..... 210

Complainant's Exhibit No. 347 (List of Deeded Claims)..... 214

Complainant's Exhibit "A" (Contract Between R. M. Cobban of Missoula, Montana, and C. L. Griswold of Clearwater, Montana, Dated May 22, 1899).. 216

Complainant's Exhibit "B" (Description and Estimate of Lands Sold to W. A. Clark by R. M. Cobban, November 11, 1899).... 219

Complainant's Exhibit "C" (Account of C. L. Griswold with R. M. Cobban)..... 224

Page

Complainant's Exhibit "D" (Account of R. M. Cobban with Samuel Dinsmore).. 226

Decree.... 58

Defendant's Exhibit No. 201 (Receipt from Lizzie Wells to C. L. Griswold, Dated August 2, 1899).. 258

Defendant's Exhibit No. 204 (Receipt from John Gillis to C. L. Griswold, Dated August 2, 1899).. 258

Defendant's Exhibit No. 205 (Receipt from Mrs. E. M. Gagnon to C. L. Griswold, Dated July 16, 1899).. 259

Defendant's Exhibit No. 206 (Receipt from C. L. Griswold to R. M. Cobban, Dated August 1, 1899).... 259

Defendant's Exhibit No. 298 (Check from W. A. Clark & Brother to R. M. Cobban, Dated February 12, 1900)..... 260

Defendant's Exhibit No. 299 (Check from W. A. Clark & Brother to R. M. Cobban, Dated April 30, 1900).. 260

Defendant's Exhibit No. 300 (Letter Dated July 31, 1899, Addressed to A. H. Wethey, Butte, Montana, Signed by W. M. Bickford)..... 261

Defendant's Exhibit No. 301 (Letter Dated September 18, 1899, Addressed to A. H. Wetbey, Butte, Montana, Signed by W. M. Bickford)..... 266

Defendant's Exhibit No. 302 (Letter Dated November 16, 1899, Addressed to A. H. Wethey, Butte, Montana, Signed by W. M. Bickford)..... 269

Page

Defendant's Exhibit No. 303 (Letter Dated Bonner, Montana, August 10, 1899, Addressed to the Big Blackfoot Milling Company, Signed by Frank Vogel)..... 271

Defendant's Exhibit No. 304 (Letter Dated Bonner, Montana, November 14, 1899, Addressed to the Big Blackfoot Milling Company, Signed by Frank Vogel)..... 271

Defendant's Exhibit No. 305 (Check to R. M. Cobban from H. W. McLaughlin, Dated July 28, 1899).. 272

Defendant's Exhibit No. 306 (Check to R. M. Cobban from H. W. McLaughlin Dated July 29, 1899).. 273

Defendant's Exhibit No. 307 (Check to R. M. Cobban from H. W. McLaughlin Dated July 31, 1899).. 273

Defendant's Exhibit No. 308 (Check to R. M. Cobban from H. W. McLaughlin Dated September 13, 1899)..... 274

Defendant's Exhibit No. 309 (Check to R. M. Cobban from H. W. McLaughlin, Dated September 21, 1899).....

Defendant's Exhibit No. 310 (Check to R. M. Cobban from H. W. McLaughlin Dated September 21, 1899)..... 275

Defendant's Exhibit No. 314 (Mortgage Deed, Dated October 13, 1899, Between Lizzie A. Wells and Lewis A. Wells and Big Blackfoot Milling Company)..... 276

Page

Defendant's Exhibit No. 315 (Mortgage Deed Dated August 9, 1899, from Lewis A. Wells and Lizzie A. Wells to Big Blackfoot Milling Company).. 280

Defendant's Exhibit No. 316 (Promissory Note Dated September 28, 1899, to the First National Bank of Butte, Signed by R. M. Cobban, Samuel Dinsmore and Alice M. Cobban)..... 283

Defendant's Exhibit No. 317 (Promissory Note Dated November 23, 1899, to the First National Bank of Butte, Signed by R. M. Cobban, Samuel Dinsmore, and Alice M. Cobban)..... 284

Defendant's Exhibit No. 318 (Promissory Note Dated February 14, 1900, to the First National Bank of Butte, Signed by R. M. Cobban, Samuel Dinsmore and Alice M. Cobban).. 285

Defendant's Exhibit No. 319 (Promissory Note Dated October 17, 1899, to the First National Bank of Butte, Signed by R. M. Cobban, Alice M. Cobban and Samuel Dinsmore)..... 286

Defendant's Exhibit No. 320 (Promissory Note Dated July 7, 1900, to the First National Bank of Butte, Signed by R. M. Cobban, and Samuel Dinsmore)..... 287

Defendant's Exhibit No. 321 (Promissory Note Dated June 23, 1899, to the First National Bank of Butte, Signed by R. M. Cobban)..... 288

Defendant's Exhibit No. 322 (Promissory Note Dated December 2, 1899, to the First National Bank of

Page

Butte, Signed by R. M. Cobban, Samuel Dinsmore and Alice M. Cobban).. 289

Defendant's Exhibit No. 323 (Promissory Note Dated February 14, 1900, to the First National Bank of Butte, Signed by R. M. Cobban)..... 290

Defendant's Exhibit No. 324 (Promissory Note Dated July 6 1899, to the First National Bank of Butte, Signed by R. M. Cobban and Samuel Dinsmore)... 291

Defendant's Exhibit No. 325 (Promissory Note Dated Butte, Montana, April 5, 1899, to the First National Bank of Butte, Signed by R. M. Cobban).. 292

Defendant's Exhibit No. 326 (Promissory Note Dated February 21, 1900, to J. E. Gaylord, Signed by R. M. Cobban and Samuel Dinsmore)..... 294

Defendant's Exhibit No. 327 (Promissory Note Dated Missoula, Montana, February 21, 1900, to J. E. Gaylord Signed by R. M. Cobban and Samuel Dinsmore)..... 391

Defendant's Exhibit No. 328 (Promissory Note Dated January 4, 1900, to the First National Bank of Butte, Signed by R. M. Cobban, Alice M. Cobban and Samuel Dinsmore..... 295

Defendant's Exhibit No. 329 (Promissory Note Dated July 7, 1900, to the First National Bank of Butte, Signed by R. M. Cobban, Alice M. Cobban and Samuel Dinsmore)..... 297

Page

Defendant's Exhibit No. 330 (Promissory Note Dated May 11, 1900, to the First National Bank of Butte, Signed by R. M. Cobban and Samuel Dinsmore)..... 296

Defendant's Exhibit No. 331 (Promissory Noted Dated August 29, 1900, to the First National Bank of Missoula, Signed by R. M. Cobban and Alice M. Cobban)..... 298

Defendant's Exhibit No. 332 (Promissory Note Dated July 11, 1900, to the First National Bank of Missoula, Signed by R. M. Cobban and Samuel Dinsmore)..... 299

Defendant's Exhibit No. 333 (Promissory Note Dated May 28, 1900, to the First National Bank of Missoula, Signed by R. M. Cobban and Cobban & Dinsmore)..... 299

Defendant's Exhibit No. 334 (Promissory Note Dated October 23, 1899, to the First National Bank of Missoula, Signed by R. M. Cobban, Alice M. Cobban and Cobban & Price)..... 300

Defendant's Exhibit No. 335 (Promissory Note Dated September 5, 1899, to the First National Bank of Missoula, Signed by R. M. Cobban, Alice M. Cobban, Bonner & Price and D. R. Beck)..... 301

Defendant's Exhibit No. 336 (Promissory Note Dated July 25, 1898, to the First National Bank of Missoula, Signed by R. M. Cobban, Alice M. Cobban)..... 301

Page

Defendant's Exhibit No. 337 (Promissory Note Dated October 31, 1899, to the Silver Bow National Bank of Butte City, Signed by R. M. Cobban and Samuel Dinsmore).... 302

Defendant's Exhibit No. 338 (Promissory Note Dated August 3, 1899, to the State Savings Bank of Butte, Signed by R. M. Cobban and S. V. Kemper).... 303

Defendant's Exhibit No. 339 (Promissory Note Dated November 10, 1899, to the State Savings Bank of Butte, Signed by R. M. Cobban and Samuel Dinsmore).... 304

Defendant's Exhibit No. 340 (Promissory Note Dated October 4, 1899, to James McKinnon, Signed R. M. Cobban).... 304

Defendant's Exhibit No. 341 (Promissory Note Dated April 4, 1899, to S. C. F. Cobban)..... 306

Defendant's Exhibit No. 342 (Promissory Note Dated April 29, 1899, to Joseph Boors)..... 305

Defendant's Exhibit No. 343 (Promissory Note Dated October 27, 1899, to Joseph Boors)..... 306

Defendant's Exhibit No. 348 (Testimony of Chauncey L. Griswold Taken Before Special Inspector Zevely)..... 307

Defendant's Exhibit "E" (Affidavit of C. L. Griswold in the Cause Entited C. L. Griswold, Plaintiff, vs. R. M. Cobban, Defendant)..... 316

Exhibit No. 1, Complainant's (Warranty Deed Dated October 27, 1899, Between Frank B. Arey and

Page

Hannah V. Arey of Missoula, Montana, and R. M. Cobban of Missoula, Montana.) 145

Exhibit No. 2, Complainant's (United States Patent for Land Issued to Frank B. Arey) 148

Exhibit No. 199, Complainant's (Appointment for Meeting at Room 7, 222 Broadway to Wm. E. Lefley from R. M. Cobban, Missoula, Montana) .. 151

Exhibit No. 200, Complainant's (Testimony of Mr. Allen Dodd) 152

Exhibit No. 202, Complainant's (Telegram to C. L. Griswold, Missoula, Montana, Dated June 23, 1899, from R. M. Cobban) 156

Exhibit No. 203, Complainant's (Receipt for Publishing Final Proof Notice Issued to Stephen Tepper by the "Missoulian") 156

Exhibit No. 313, Complainant's (Account of L. A. Wells with the Western Montana National Bank, Missoula, Montana) 157

Exhibit No. 344, Complainant's (Copy of Advertisement of Cobban & Dinsmore, Missoula, Montana) 161

Exhibit No. 345, Complainant's (Transcript of Evidence of R. M. Cobban) 162

Exhibit No. 346, Complainant's (Extract from Register of Civil Actions, District Court, in Cause Entitled Griswold vs. Cobban—No. 1886) 210

Exhibit No. 347, Complainant's (List of Deeded Claims) 214

Page

Exhibit No. 201, Defendant's (Receipt from Lizzie Wells to C. L. Griswold, Dated August 2, 1899). 258

Exhibit No. 204, Defendant's (Receipt from John Gillis to C. L. Griswold, Dated August 2, 1899). 258

Exhibit No. 205, Defendant's (Receipt from Mrs. E. M. Gagnon to C. L. Griswold, Dated July 16, 1899)..... 259

Exhibit No. 206, Defendant's (Receipt from C. L. Griswold to R. M. Cobban, Dated August 1, 1899)..... 259

Exhibit No. 298, Defendant's (Check from W. A. Clark & Brother, Dated February 12, 1900).... 260

Exhibit No. 299, Defendant's (Check from W. A. Clark & Brother to R. M. Cobban, Dated April 30, 1900)..... 260

Exhibit No. 300, Defendant's (Letter Dated July 31, 1899, Addressed to A. H. Wethey, Butte, Montana, Signed by W. M. Bickford)..... 261

Exhibit No. 301, Defendant's (Letter, Dated September 18, 1899, Addressed to A. H. Wethey, Butte, Montana, Signed by W. M. Bickford)..... 266

Exhibit No. 302, Defendant's (Letter Dated November 16, 1899, Addressed to A. H. Wethey, Butte, Montana, Signed by W. M. Bickford)..... 269

Exhibit No. 303, Defendant's (Letter Dated Bonner, Montana, August 10, 1899, Addressed to the Big Blackfoot Milling Company, Signed by by Frank Vogel)..... 271

Page

Exhibit No. 304, Defendant's (Letter Dated Bonner, Montana, November 14, 1899, Addressed to the Big Blackfoot Milling Company, Signed by Frank Vogel)..... 271

Exhibit No. 305, Defendant's (Check to R. M. Cobban from H. W. McLaughlin, Dated July 28, 1899).. 272

Exhibit No. 306, Defendant's (Check to R. M. Cobban from H. W. McLaughlin, Dated July 29, 1899).. 273

Exhibit No. 307, Defendant's (Check to R. M. Cobban from H. W. McLaughlin, Dated July 31, 1899)..... 273

Exhibit No. 308, Defendant's (Check to R. M. Cobban from H. W. McLaughlin, Dated September 13, 1899)..... 274

Exhibit No. 309, Defendant's (Check to R. M. Cobban from H. W. McLaughlin, Dated September 21, 1899)..... 275

Exhibit No. 310, Defendant's (Check to R. M. Cobban from H. W. McLaughlin, Dated September 21, 1899)..... 375

Exhibit No. 314, Defendant's (Mortgage Deed, Dated October 13, 1899, Between Lizzie A. Wells and Lewis A. Wells and Big Blackfoot Milling Company)..... 276

Exhibit No. 315, Defendant's (Mortgage Deed Dated August 9, 1899, from Lewis A. Wells and Lizzie A. Wells to Big Blackfoot Milling Company).. 280

Exhibit No. 316, Defendant's (Promissory Note Dated September 28, 1899, to the First National

Page

Bank of Butte, Signed by R. M. Cobban, Samuel Dinsmore and Alice M. Cobban).... 283

Exhibit No. 317, Defendant's (Promissory Note Dated November 23, 1899, to the First National Bank of Butte, Signed by R. M. Cobban, Samuel Dinsmore and Alice M. Cobban).... 284

Exhibit No. 318, Defendant's (Promissory Note Dated February 14, 1900, to the First National Bank of Butte, Signed by R. M. Cobban, Samuel Dinsmore and Alice M. Cobban).... 285

Exhibit No. 319, Defendant's (Promissory Note Dated October 17, 1899, to the First National Bank of Butte, Signed by R. M. Cobban, Alice M. Cobban and Samuel Dinsmore)..... 286

Exhibit No. 320, Defendant's (Promissory Note Dated July 7, 1900, to the First National Bank of Butte, Signed by R. M. Cobban and Samuel Dinsmore).... 287

Exhibit No. 321, Defendant's (Promissory Note Dated June 23, 1899, to the First National Bank of Butte, Signed by R. M. Cobban).... 288

Exhibit No. 322, Defendant's (Promissory Note Dated December 2, 1899, to the First National Bank of Butte, Signed by R. M. Cobban, Samuel Dinsmore and Alice M. Cobban)..... 289

Exhibit No. 323, Defendant's (Promissory Note Dated February 14, 1900, to the First National Bank of Butte, Signed by R. M. Cobban)..... 290

Page

Exhibit No. 324, Defendant's (Promissory Note Dated July 6, 1899, to the First National Bank of Butte, Signed by R. M. Cobban and Samuel Dinsmore).... 291

Exhibit No. 325, Defendant's (Promissory Note, Dated Butte, Montana, April 5, 1899, to the First National Bank of Butte, Signed by R. M. Cobban).... 292

Exhibit No. 326, Defendant's (Promissory Note Dated February 21, 1900, to J. E. Gaylord, Signed by R. M. Cobban and Samuel Dinsmore). 294

Exhibit No. 327, Defendant's (Promissory Note Dated Missoula, Montana, February 21, 1900, to J. E. Gaylord, Signed by R. M. Cobban and Samuel Dinsmore).... 391

Exhibit No. 328, Defendant's (Promissory Note Dated January 4, 1900, to the First National Bank of Butte, Signed by R. M. Cobban, Alice M. Cobban and Samuel Dinsmore)..... 295

Exhibit No. 329, Defendant's (Promissory Note Dated July 7, 1900, to the First National Bank of Butte, Signed by R. M. Cobban, Alice M. Cobban and Samuel Dinsmore).... 297

Exhibit No. 330, Defendant's (Promissory Note Dated May 11, 1900, to the First National Bank of Butte, Signed by R. M. Cobban and Samuel Dinsmore).... 296

Page

Exhibit No. 331, Defendant's (Promissory Note Dated August 29, 1900, to the First National Bank of Missoula, Signed by R. M. Cobban and Alice M. Cobban)..... 298

Exhibit No. 332, Defendant's (Promissory Note Dated July 11, 1900, to the First National Bank of Missoula, Signed by R. M. Cobban and Samuel Dinsmore)..... 299

Exhibit No. 333, Defendant's (Promissory Note Dated May 28, 1900, to the First National Bank of Missoula, Signed by R. M. Cobban and Cobban and Dinsmore)..... 299

Exhibit No. 334, Defendant's (Promissory Note Dated October 23, 1899, to the First National Bank of Missoula, Signed by R. M. Cobban, Alice M. Cobban and Bonner & Price)..... 300

Exhibit No. 335, Defendant's (Promissory Note Dated September 5, 1899, to the First National Bank of Missoula, Signed by R. M. Cobban, Alice M. Cobban, Bonner & Price and D. R. Beck)..... 301

Exhibit No. 336, Defendant's (Promissory Note Dated July 25, 1898, to the First National Bank of Missoula, Signed R. M. Cobban and Alice M. Cobban).. 301

Exhibit No. 337, Defendant's (Promissory Note Dated October 31, 1899, to the Silver Bow National Bank of Butte City, Signed by R. M. Cobban and Samuel Dinsmore)..... 302

Page

Exhibit No. 338, Defendant's (Promissory Note Dated August 3, 1899, to the State Savings Bank of Butte, Signed by R. M. Cobban and S. V. Kemper).. 303

Exhibit No. 339, Defendant's (Promissory Note Dated November 10, 1899, to the State Savings Bank of Butte, Signed by R. M. Cobban and Samuel Dinsmore).... 304

Exhibit No. 340, Defendant's (Promissory Note Dated October 4, 1899, to James McKinnon, Signed by R. M. Cobban).... 304

Exhibit No. 341, Defendant's (Promissory Note Dated April 4, 1899, to S. C. F. Cobban)..... 306

Exhibit No. 342, Defendant's (Promissory Note Dated April 29, 1899, to Joseph Boors)..... 305

Exhibit No. 343, Defendants (Promissory Note Dated October 27, 1899, to Joseph Boors)..... 306

Exhibit No. 348, Defendant's (Testimony of Chauncey L. Griswold Taken Before Special Inspector Zevely)..... 307

Exhibit "A," Complainant's (Contract Between R. M. Cobban of Missoula, Montana, and C. L. Griswold of Clearwater, Montana, Dated May 22, 1899).... 216

Exhibit "B," Complainant's (Description and Estimate of Lands Sold to W. A. Clark by R. M. Cobban, November 11, 1899)..... 219

Exhibit "C," Complainant's (Account of C. L. Griswold with R. M. Cobban)..... 224

Page

Exhibit "D," Complainant's (Account of R. M. Cobban with Samuel Dinsmore).... 226

Exhibit "E," Defendant's (Affidavit of C. L. Griswold in the Cause Entitled C. L. Griswold, Plaintiff, vs. R. M. Cobban, Defendant)..... 316

Opinion... 59

Order Allowing Appeal..... 141

Order Extending Time to Docket Cause..... 2

Order Extending Time to File Transcript..... 144

Petition for Appeal and Order Allowing Same..... 140

Replication..... 56

Statement of the Court.. 142

Stipulation as to Printing Record.... 1

Subpoena Toties Quoties.. 18

INDEX TO TESTIMONY.

Page

Certificate of Examiner—Vol. III.....1188

Certificate of Master in Chancery—Vol. I..... 1

Certificate of Master in Chauncey—Vol. II..... 605

Certificate of Master in Chancery—Vol. IV.....1793

Certificate of Master in Chancery—Vol. V.....2359

Certificate of Master in Chancery—Vol. VI.....3001

Certificate of Master in Chancery—Vol. VII.....3677

Certificate of Master in Chancery—Vol. IX.....4384

Certificate of Master in Chancery—Vol. X.....5092

Certificate of Master in Chancery—Vol. XI.....5761

Certificate of Master in Chancery—Vol. XII.....6201

Complainant's Exhibit "C"—Vol. I (Statement of Account of C. L. Griswold with R. M. Cobban) 169

Defendant's Exhibit "E"—Vol. I (Affidavit of Chauncey L. Griswold Regarding the Procurement of Lands Taken Under the Timber and Stone Act of Congress) 274

Defendant's Exhibit No. 285—Vol. IX (Letter Dated Butte, Montana, December 16, 1899, Addressed to Mr. R. M. Cobban, Signed by A. H. Wethey) 4424

Defendant's Exhibit No. 286—Vol. IX (Promissory Note to W. A. Clark, Dated Butte, Montana, November 18, 1899, Signed by R. M. Cobban)...4425

Page

Defendant's Exhibit No. 288—Vol. IX (Promissory Note to W. A. Clark and J. Ross Clark, Dated Butte, Montana, October 31, 1899, Signed by R. M. Cobban) 4427

Defendant's Exhibit No. 289—Vol. IX (Contract Dated January 27, 1900, Between W. A. Clark, of Silver Bow County, Montana, and R. M. Cobban, of Missoula County, Montana) 4432

Defendant's Exhibit No. 290—Vol. IX (Contract Dated November 18, 1899, Between W. A. Clark of Silver Bow County, Montana, and R. M. Cobban, of Missoula County, Montana) 4436

Defendant's Exhibit No. 291—Vol. IX (Draft on First National Bank of Butte, Dated Butte, Montana, December 15, 1899, Signed by R. M. Cobban) 4440

Defendant's Exhibit No. 292—Vol. IX (Promissory Note to W. A. Clark, Dated Butte, Montana, January 27, 1900, Endorsed Cobban Land and Realty Company, Butte, Montana) 4443

Defendant's Exhibit No. 293—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, July 24, 1899, Signed by W. A. Clark & Brother) 4445

Defendant's Exhibit No. 294—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, September 13, 1899, Signed by W. A. Clark & Brother) 4446

Page

Defendant's Exhibit No. 295—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, September 19, 1899, Signed by W. A. Clark & Brother) 4447

Defendant's Exhibit No. 296—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, November 18, 1899, Signed by W. A. Clark & Brother) 4448

Defendant's Exhibit No. 298—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, February 12, 1900, Signed by W. A. Clark & Brother) 4451

Defendant's Exhibit No. 299—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, April 30, 1900, Signed by W. A. Clark & Brother) 4452

Defendant's Exhibit No. 300—Vol. IX (Letter Dated Butte, Montana, July 31, 1899, Addressed to A. H. Wethey, Signed by W. M. Bickford)..4454

Defendant's Exhibit No. 301—Vol. IX (Letter Dated Butte, Montana, September 18, 1899, Addressed to A. H. Wethey, Signed by W. M. Bickford) 4460

Defendant's Exhibit No. 302—Vol. IX (Letter Dated Helena, Montana, November 16, 1899, Addressed to A. H. Wethey, Signed by W. M. Bickford) 4463

Defendant's Exhibit No. 303—Vol. VIII (Letter Dated Bonner, Montana, August 10, 1899, Ad-

Page

dressed to Big Blackfoot Milling Company, Signed by Frank Vogel) 3937

Defendant's Exhibit No. 304—Vol. VIII (Letter Dated Bonner, Montana, November 14, 1899, Addressed to Big Blackfoot Milling Company, Signed by Frank Vogel) 3938

Deposition of Harrison Dodd—Vol. XIII.....6538

Exhibit "C," Complainant's—Vol. I (Statement of Account of C. L. Griswold with R. M. Cobban).. 169

Exhibit "E," Defendant's—Vol. I (Affidavit of Chauncey L. Griswold Regarding the Procurement of Lands Taken Under the Timber and Stone Act of Congress) 274

Exhibit "G"—Vol. II (Testimony of Thomas B. Bryan) 803

Exhibit No. 285, Defendant's—Vol. IX (Letter Dated Butte, Montana, December 16, 1899, Addressed to Mr. R. M. Cobban, Signed by A. H. Wethey) 4424

Exhibit No. 286, Defendant's—Vol. IX (Promissory Note to W. A. Clark, Dated Butte, Montana, November 18, 1899, Signed by R. M. Cobban) ..4425

Exhibit No. 288, Defendant's—Vol. IX (Promissory Note to W. A. Clark and J. Ross Clark, Dated Butte, Montana, October 31, 1899, Signed by R. M. Cobban) 4427

Exhibit No. 289, Defendant's—Vol. IX (Contract Dated January 27, 1900, Between W. A. Clark,

Page

of Silver Bow County, Montana, and R. M. Cobban, of Missoula County, Montana) 4432

Exhibit No. 290, Defendant's—Vol. IX (Contract Dated November 18, 1899, Between W. A. Clark of Silver Bow County, Montana and R. M. Cobban of Missoula County, Montana) 4436

Exhibit No. 291, Defendant's—Vol. IX (Draft on First National Bank of Butte, Dated Butte, Montana, December 15, 1899, Signed by R. M. Cobban) 4440

Exhibit No. 292, Defendant's—Vol. IX (Promissory Note to W. A. Clark, Dated Butte, Montana, January 27, 1899, Endorsed Cobban Land and Realty Company, Butte, Montana) 4443

Exhibit No. 293, Defendant's—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, July 24, 1899, Signed by W. A. Clark & Brother) 4445

Exhibit No. 294, Defendant's—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, September 13, 1899, Signed by W. A. Clark & Brother) 4446

Exhibit No. 295, Defendant's—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, September 19, 1899, Signed by W. A. Clark & Brother) 4447

Exhibit No. 296, Defendant's—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte,

Page

Montana, November 18, 1899, Signed by W. A. Clark & Brother) 4448

Exhibit No. 298, Defendant's—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, February 12, 1900, Signed by W. A. Clark & Brother) 4451

Exhibit No. 299, Defendant's—Vol. IX (Draft on W. A. Clark & Brother, Bankers, Dated Butte, Montana, April 30, 1900, Signed by W. A. Clark & Brother) 4452

Exhibit No. 300, Defendant's—Vol. IX (Letter Dated Butte, Montana, July 31, 1899, Addressed to A. H. Wethey, Signed by W. M. Bickford)..4454

Exhibit No. 301, Defendant's—Vol. IX (Letter Dated Butte, Montana, September 18, 1899, Addressed to A. H. Wethey, Signed by W. M. Bickford) 4460

Exhibit No. 302, Defendant's—Vol. IX (Letter Dated Helena, Montana, November 16, 1899, Addressed to A. H. Wethey, Signed by W. M. Bickford) 4463

Exhibit No. 303, Defendant's—Vol. VIII (Letter Dated Bonner, Montana, August 10, 1899, Addressed to Big Blackfoot Milling Company, Signed by Frank Vogel) 3937

Exhibit No. 304, Defendant's—Vol. VIII (Letter Dated Bonner, Montana, November 14, 1899, Addressed to Big Blackfoot Milling Company, Signed by Frank Vogel) 3938

Page

Notice—Vol. I 86

Stipulation and Order as to Taking Testimony—Vol. I 2

Testimony on Behalf of Complainant:

Frank B. Arey—Vol. III.....1134

Frank B. Arey—Vol. III (cross-examination).1140

Mrs. Hannah B. Arey—Vol. IV 1677

Mrs. Hannah B. Arey—Vol. IV (cross-examination) 1692

Mrs. Hannah B. Arey—Vol. IV (redirect examination) 1693

Mrs. Hannah B. Arey—Vol. IV (recross-examination) 1694

Leonard Barrott—Vol. III 1566

Leonard Barrott—Vol. III (cross-examination) 1580

Leonard Barrott—Vol. IV (redirect examination) 1587

Mrs. Harriet F. Bryan—Vol. III.....1330

Mrs. Harriet F. Bryan—Vol. III (cross-examination) 1358

Lelia T. Bryan—Vol. III.....1142

Lelia T. Bryan—Vol III (cross-examination..1149

Thomas B. Bryan—Vol. II 737

Thomas B. Bryan—Vol. II (cross-examination) 760

Thomas B. Bryan—Vol. II (redirect examination) 782

Thomas B. Bryan—Vol. II (recross-examination) 791

Page

Testimony on Behalf of Complainant—Continued:

Thomas B. Bryan—Vol. II (redirect examination) 792

Thomas B. Bryan—Vol. II (recross-examination) 796

Thomas B. Bryan—Vol. II (redirect examination) 798

Thomas B. Bryan—Vol. II (recross-examination) 808

Thomas B. Bryan—Vol. II (redirect examination) 810

Thomas B. Bryan—Vol. II (recross-examination) 812

Thomas B. Bryan—Vol. XIII 6592

Mrs. Lizzie T. Catlin—Vol. V 2191

Mrs. Lizzie T. Catlin—Vol. V (cross-examination) 2202

Mrs. Lizzie T. Catlin—Vol. V (redirect examination) 2205

B. Frank Chattin—Vol. IV 1735

B. F. Chattin—Vol. IV (cross-examination)..1762

Daisy L. Chattin—Vol. XII 6203

R. M. Cobban—Vol. XIII (recalled) 6264

R. M. Cobban—Vol. XIII (recalled—in rebuttal) 6280

R. M. Cobban—Vol. XIII (cross-examination).6349

John H. Cole—Vol. VI 2912

John H. Cole—Vol. VI (cross-examination)...2920

John H. Cole—Vol. VI (redirect examination).2922

Testimony on Behalf of Complainant—Continued:

Page

John H. Cole—Vol. VI (recross-examination).2927
John H. Cole—Vol. VI (redirect examination).2928
John H. Cole—Vol. VI (recross-examination).2929
Charles Curry—Vol. IV 1729
Charles Curry—Vol. IV (cross-examination)..1734
Levi B. Cyr—Vol. IV 2074
Levi B. Cyr—Vol. V (cross-examination) 2117
Levi B. Cyr—Vol. V (redirect examination)..2129
Levi B. Cyr—Vol. V (recross-examination ..2131
Levi B. Cyr—Vol. V (redirect examination) ..2131
Levi B. Cyr—Vol. V (recross-examination) ..2132
Vital Cyr—Vol. V 2618
Vital Cyr—Vol. VI (cross-examination) 2658
Vital Cyr—Vol. VI (redirect examination) ...2666
Vital Cyr—Vol. VI (recross-examination) 2668
Mrs. Emma Dildine—Vol. IV 1869
Mrs. Emma Dildine—Vol. IV (cross-examination) 1923
George Dildine—Vol. IV 1643
George Dildine—Vol. IV (cross-examination)..1673
Allen Dodd—Vol. V 2360
Allen Dodd—Vol. V (cross-examination) 2416
Allen Dodd—Vol. V (redirect examination) ..2423
Allen Dodd—Vol. V (cross-examination) 2445
Allen Dodd—Vol. V (redirect examination) ..2452
Allen Dodd—Vol. V (recross-examination) ...2459
Allen Dodd—Vol. V (redirect examination) ..2460
Allen Dodd—Vol. XIII 6600

Page

Testimony on Behalf of Complainant—Continued:

Cora Dodd—Vol. III 1362
Cora Dodd—Vol. III (cross-examination) 1388
Cora Dodd—Vol. III (redirect examination) ..1394
Edward Dodd—Vol. III 1399
Edward Dodd—Vol. III (cross-examination) ..1424
Edward Dodd—Vol. III (redirect examination) 1430
Edward D. Doney—Vol. IV 1588
Edward D. Doney—Vol. IV (cross-examination).....1630
Edward D. Doney—Vol. IV (redirect examination) 1641
Hiram Dodd—Vol. III 1431
Hiram Dodd—Vol. III (cross-examination) ...1451
Martha M. J. Doney—Vol. XIII 6220
M. P. Dunham—Vol. V 2259
M. P. Dunham—Vol. V (cross-examination) ...2284
M. P. Dunham—Vol. V (redirect examination) 2290
M. P. Dunham—Vol. V (recross-examination) .2298
M. P. Dunham—Vol. V (redirect examination) 2299
M. P. Dunham—Vol. V (recross-examination) .2302
Herbert Eddy—Vol. III 1190
Herbert Eddy—Vol. III (cross-examination) ..1212
Herbert Eddy—Vol. III (redirect examination) 1223
Herbert Eddy—Vol. III (recross-examination) 1224
Herbert Eddy—Vol. III (redirect examination) 1225

Page

Testimony on Behalf of Complainant—Continued:

Mary Eddy—Vol. III 1228
Mary Eddy—Vol. III (cross-examination) 1237
Mary Eddy—Vol. III (redirect examination) ..1239
Mary Eddy—Vol. III (recross-examination) ..1240
William J. Eddy—Vol. IV 1768
William J. Eddy—Vol. IV (cross-examination) 1785
A. E. Ehle—Vol. VI (cross-examination) 2834
A. E. Ehle—Vol. VI 2759
A. E. Ehle—Vol. VI (redirect examination) ..2844
A. E. Ehle—Vol. VI (recross-examination) ...2845
A. E. Ehle—Vol. VI (redirect examination) ...2846
A. E. Ehle—Vol. VI (recalled) 2849
Mrs. Nellie J. Ehle—Vol. VI 2853
Mrs. Nellie J. Ehle—Vol. VI (cross-examination) 2898
Mrs. Nellie J. Ehle—Vol. VI (redirect examination) 2902
Mrs. Nellie J. Ehle—Vol. VI (recalled) 2907
Robert Fisher—Vol. V 2250
Joshua C. Gilman—Vol. III 1531
Joshua C. Gilman—Vol. III (cross-examination) 1545
Lavina I. Gilman—Vol. III 1510
Lavina I. Gilman—Vol. III (cross-examination) 1525
Lavina I. Gilman—Vol. III (redirect examination) 1530
William G. Glenny—Vol. VI 2669

Page

Testimony on Behalf of Complainant—Continued:

William G. Glenny—Vol. VI (cross-examination) 2673

Phil Greenan—Vol. II 655

George D. Greene—Vol. II 614

George D. Greene—Vol. V (recalled) 2460

George D. Greene—Vol. V (cross-examination) 2533

George D. Greene—Vol. V (redirect examination) 2546

George D. Greene—Vol. V (recross-examination) 2604

George D. Greene—Vol. V (redirect examination) 2605

George D. Greene—Vol. VI (recalled) 2931

George D. Greene—Vol. VI (cross-examination) 2933

George D. Greene—Vol. VI (redirect examination) 2935

George D. Greene—Vol. VI (recross-examination) 2936

Chauncey L. Griswold—Vol. I..... 5

Chauncey L. Griswold—Vol. I (cross-examination) 95

Chauncey L. Griswold—Vol. I (redirect examination) 335

Chauncey L. Griswold—Vol. I (recross-examination) 346

Chauncey L. Griswold—Vol. I (redirect examination) 355

Page

Testimony on Behalf of Complainant—Continued:

Chauncey L. Griswold—Vol. I (recross-examination) 356

Chauncey L. Griswold—Vol. VII..... 3416

Chauncey L. Griswold—Vol. VII (cross-examination) 3505

Chauncey L. Griswold—Vol. VII (redirect examination) 3560

Chauncey L. Griswold—Vol. VII (recross-examination) 3577

Chauncey L. Griswold—Vol. VII (redirect-examination) 3642

Chauncey L. Griswold—Vol. XIII (recalled—in rebuttal) 6429

Chauncey L. Griswold—Vol. XIII (recalled)..6531

Chauncey L. Griswold—Vol. XIII (cross-examination) 6537

Chauncey L. Griswold—Vol. XIII (recalled)..6544

Chauncey L. Griswold—Vol. XIII (cross-examination) 6549

Chauncey L. Griswold—Vol. XIII (redirect examination) 6579

Chauncey L. Griswold—Vol. XIII (recross-examination) 6583

Chauncey L. Griswold—Vol. XIII (redirect examination) 6583

Mrs. May Hawthorne—Vol. XIII..... 6240

Lucian W. Heath—Vol. XIII 6613

Page

Testimony on Behalf of Complainant—Continued:
Lucian W. Heath—Vol. XIII (cross-examination) 6614
Lucian W. Heath—Vol. XIII (redirect examination) 6616
J. G. Hendrix—Vol. IV 2015
J. G. Hendrix—Vol. IV (cross-examination)... 2042
J. G. Hendrix—Vol. IV (redirect examination).. 2053
J. G. Hendrix—Vol. IV (recross-examination).. 2070
Elmer E. Hershey—Vol. II..... 906
Elmer E. Hershey—Vol. II (cross-examination). 962
Elmer E. Hershey—Vol. V (recalled)..... 2605
Abraham J. Jemison—Vol. III..... 1241
Abraham J. Jemison—Vol. III (cross-examination)..... 1265
Abraham J. Jemison—Vol. III (redirect examination)..... 1270
Abraham J. Jemison—Vol. III (recross-examination)..... 1272
Albert Jemison—Vol. I..... 360
Albert Jemison—Vol. I (cross-examination).... 484
Albert Jemison—Vol. II (redirect examination)..... 533
Albert Jemison—Vol. II (recross-examination). 570
Albert Jemison—Vol. II (redirect examination)..... 599
Albert Jemison—Vol. XIII..... 6604
Charles H. Jemison—Vol. III..... 1126

Page

Testimony on Behalf of Complainant—Continued:

Charles H. Jemison—Vol. III (cross-examination).....1133

Eveline Jemison—Vol. III.....1308

Eveline Jemison—Vol. III (cross-examination).1320

Eveline Jemison—Vol. III (redirect examination).....1325

George P. Jemison—Vol. IV.....1837

George P. Jemison—Vol. IV (cross-examination).....1863

Jacob F. Jemison—Vol. III.....1150

Jacob F. Jemison—Vol. III (cross-examination).....1157

Jacob F. Jemison—Vol. III (redirect examination).....1157

Recy M. Jemison—Vol. VI.....2964

Recy M. Jemison—Vol. VI (cross-examination).2983

Recy M. Jemison—Vol. VI (cross-examination)..2994

Recy M. Jemison—Vol. VI (recross-examination).....3000

Zora Jemison—Vol. III.....1272

Zora Jemison—Vol. III (cross-examination)....1286

Mrs. Effie M. Kilburn—Vol. V.....2208

Robert W. Kemp—Vol. XIII.....6390

Thomas Kennedy—Vol. IV.....1710

Thomas Kennedy—Vol. IV (cross-examination).....1717

Mrs. Effie M. Kilburn—Vol. V (cross-examination).....2244

Page

Testimony on Behalf of Complainant—Continued:

Mrs. Eunice Knight—Vol. VI 2937

Mrs. Eunice Knight—Vol. VI (cross-examination).....2952

William E. Lepley—Vol. IV.....2009

William E. Lepley—Vol. IV (cross-examination).....2010

William E. Lepley—Vol. IV (redirect examination).....2014

Ollie Matthews—Vol. IV.....1703

Ollie Matthews—Vol. IV (cross-examination)..1708

Mrs. Rolla Matthews—Vol. IV.....1695

Mrs. Rolla Matthews—Vol. IV (cross-examination).....1701

Thomas H. McConnell—Vol. IV.....1935

Thomas H. McConnell—Vol. IV (cross-examination).....1959

Dan McGilis—Vol. XII.....6106

Dan McGilis—Vol. XII—(cross-examination)..6128

Dan McGilis—Vol. XII (redirect examination).6160

Dan McGilis—Vol. XII (redirect examination)..6176

J. B. McIntosh—Vol. V.....2608

J. B. McIntosh—Vol. V (cross-examination)....2612

H. W. McLaughlin—Vol. VI.....2682

H. W. McLaughlin—Vol. VI (cross-examination).....2745

H. W. McLaughlin—Vol. VI (redirect examination).....2758

John S. Miller—Vol. IV.....1719

Page

Testimony on Behalf of Complainant—Continued:

Mrs. Jennie Mise—Vol. XII.....6188

James Mize—Vol. III.....1172

James Mize—Vol. III (cross-examination).....1186

Charles H. Moss—Vol. III.....1081

Charles H. Moss—Vol. III (cross-examination).1097

Albert F. Muchmore—Vol. II..... 996

Albert F. Muchmore—Vol. II (cross-examination)—.....1008

Albert F. Muchmore—Vol. II (redirect examination).....1014

Elizabeth A. Muchmore—Vol. XIII.....6212

Guy W. Muchmore—Vol. III.....1159

Guy W. Muchmore—Vol. III (cross-examination).....1169

Oliver E. Muchmore—Vol. II..... 888

Oliver E. Muchmore—Vol. II (cross-examination).... 895

Oliver E. Muchmore—Vol. II (redirect examination).. 903

Oscar Muchenhirn—Vol. V.....2133

Oscar Muchenhirn—Vol. V (cross-examination).2153

Oscar Muchenhirn—Vol. V (redirect examination).....2162

John Murtaugh—Vol. II..... 831

John Murtaugh—Vol. II (cross-examination).. 839

John Murtaugh—Vol. II (redirect examination)..... 862

John Murtaugh—Vol. XIII.....6595

Page

Testimony on Behalf of Complainant—Continued:

Nels Opsata—Vol. V..... 2303

Nels Opsata—Vol. V (cross-examination).....2348

Nels Opsata—Vol. V (redirect examination)..2357

W. B. Parsons—Vol. V..... 2613

W. B. Parsons—Vol. V (cross-examination)..2615

W. B. Parsons—Vol. V (redirect examination)..2616

William Q. Ranft—Vol. II..... 661

William Q. Ranft—Vol. II (cross-examination).. 700

William Q. Ranft—Vol. II (redirect examination)..... 727

William Q. Ranft—Vol. II (recross-examination)..... 734

William Q. Ranft—Vol. II (redirect examination)..... 736

Frank L. Reece—Vol. XIII... 6238

Frank L. Reece—Vol. XIII (recalled—in rebuttal).... 6239

Mrs. Eliza A. Reeve—Vol. VI.... 3121

Mrs. Eliza A. Reeve—Vol. VI (cross-examination)..... 3138

John B. Reeve—Vol. VI..... 3145

John B. Reeve—Vol. VII (cross-examination)..3223

John B. Reeve—Vol. VII (redirect examination)..... 3264

Laura A. Roll—Vol. III.... 1456

Laura A. Roll—Vol. III (cross-examination)...1497

Laura A. Roll—Vol. III (redirect examination).1506

Laura A. Roll—Vol. III (recross-examination)..1508

Page
Testimony on Behalf of Complainant—Continued:
Thomas Roll—Vol. III..... 1548
Thomas Roll—Vol. III (cross-examination)....1563
Charles B. Sperry—Vol. II..... 865
Charles B. Sperry—Vol. II (cross-examination). 882
George W. Sproule—Vol. VII..... 3668
M. R. Stairs—Vol. IV..... 1794
M. R. Stairs—Vol. IV (cross-examination).....1812
M. R. Stairs—Vol. IV (redirect examination)..1826
M. R. Stairs—Vol IV (recross-examination)...1828
M. R. Stairs—Vol. IV (redirect examination)..1830
M. R. Stairs—Vol. IV (recross-examination)..1830
M. R. Stairs—Vol. VII..... 3654
M. R. Stairs—Vol. VII (cross-examination)..3662
Mary A. Starkie—Vol. VI.....3092
Mary A. Starkie—Vol. VI (cross-examination).3112
Mary A. Starkie—Vol. VI (redirect examination)..... 3117
Mary A. Starkie—Vol. VI (recross-examination)..... 3119
Robert Starkie—Vol. VI..... 3002
Robert Starkie—Vol. VI (cross-examination)..3081
Robert Starkie—Vol. VI (redirect examination)..... 3087
Alfred Stewart—Vol. VII..... 3341
Alfred Stewart—Vol. VII (cross-examination).3406
Lewis A. Wells—Vol. II..... 1020
Lewis A. Wells—Vol. II (cross-examination)..1025
Lewis A. Wells—Vol. II (redirect examination).1055

Page

Testimony on Behalf of Complainant—Continued:

Lewis A. Wells—Vol. II (recross-examination).1055

Mrs. Lizzie A. Wells—Vol. VII.....3270

Mrs. Lizzie A. Wells—Vol. VII (cross-examination).....3277

Mrs. Lizzie A. Wells—Vol. VII (redirect examination).....3315

Mrs. Lizzie A. Wells—Vol. VII (recross-examination).....3322

Mrs. Martha E. West—Vol. V.....2166

Mrs. Martha E. West—Vol. V (cross-examination).....2179

James W. Wheaton—Vol. III.....1288

James W. Wheaton—Vol. III (cross-examination).....1305

James W. Wheaton—Vol. III (redirect examination).....1306

James W. Wheaton—Vol. III (recross-examination).....1307

H. T. Wilkinson—Vol. II..... 607

J. P. Woolman—Vol. XIII.....6617

Lincoln Working—Vol. XIII.....6231

Lincoln Working—Vol. XIII (cross-examination).....6237

Lincoln Working—Vol. XIII (redirect examination).....6237

Calvin Yarger—Vol. IV.....1966

Calvin Yarger—Vol. IV (cross-examination)..2001

Calvin Yarger—Vol. IV (redirect examination).2006

Page

Testimony on Behalf of Defendant:

D. V. Bean—Vol. VIII..... 3847
D. V. Bean—Vol. VIII (cross-examination)...3853
D. V. Bean—Vol. VIII (redirect examination).3871
D. V. Bean—Vol. VIII (recross-examination).3874
Walter M. Bickford—Vol. VII..... 3679
Walter M. Bickford—Vol. VIII (cross-examination)..... 3706
Walter M. Bickford—Vol. VIII (redirect examination)..... 3720
Thomas B. Bryan—Vol. II (recalled)..... 813
Thomas B. Bryan—Vol. II (cross-examination). 814
Thomas B. Bryan—Vol. II (recross-examination)..... 824
Thomas B. Bryan—Vol. II (redirect examination)..... 824
Thomas B. Bryan—Vol. II (redirect examination)..... 829
John B. Catlin—Vol. IX..... 4693
John B. Catlin—Vol. IX (cross-examination)..4711
John B. Catlin—Vol. X (redirect examination).4849
John B. Catlin—Vol. X (recross-examination)..4865
John B. Catlin—Vol. X (redirect examination).4880
William A. Clark—Vol. X..... 5098
William A. Clark—Vol. X (cross-examination).5110
William A. Clark—Vol. X (redirect examination)..... 5127
R. M. Cobban—Vol. X..... 5130
R. M. Cobban—Vol. X (cross-examination)....5163
R. M. Cobban—Vol. X (redirect examination).5744

Page

Testimony on Behalf of Defendant—Continued:

R. M. Cobban—Vol. XI (recross-examination..5759

S. C. F. Cobban—Vol. XII.....6006

S. C. F. Cobban—Vol. XII (cross-examination).6011

S. C. F. Cobban—Vol. XII (redirect examination).....6041

S. C. F. Cobban—Vol. XII (recross-examination).....6042

Charles H. Cooper—Vol. XII.....6095

Charles H. Cooper—Vol. XII (cross-examination).....6097

Charles H. Cooper—Vol. XII (redirect examination).....6098

Andrew J. Davis—Vol. XII.....6069

Andrew J. Davis—Vol. XII (cross-examination).....6076

Andrew J. Davis—Vol. XII (redirect examination).....6086

Andrew J. Davis—Vol. XII (recross-examination).....6087

T. G. Denny—Vol. XII.....6003

Samuel Dinsmore—Vol. IX.....4316

Samuel Dinsmore—Vol. IX (cross-examination).....4321

Samuel Dinsmore—Vol. IX (redirect examination).....4371

Samuel Dinsmore—Vol. IX (recross-examination).....4380

Robert G. Dixon—Vol. VIII.....4008

Testimony on Behalf of Defendant—Continued: Page

Robert G. Dixon—Vol. VIII (cross-examination)....4010

Robert G. Dixon—Vol. VIII (redirect examination)....4025

Robert G. Dixon—Vol. VIII (recross-examination)....4027

William M. Draffen—Vol. VIII....4207

William M. Draffen—Vol. VIII (cross-examination)....4214

William M. Draffen—Vol. IX (redirect examination)....4245

H. J. Faust—Vol. XI....5763

H. J. Faust—Vol. XI (cross-examination)....5782

H. J. Faust—Vol. XII (redirect examination)..5918

H. J. Faust—Vol. XII (recross-examination)..5930

Chauncey L. Griswold—Vol. XII (recalled—cross-examination)....6090

Chauncey L. Griswold—Vol. XII (redirect examination)....6094

John Hayes—Vol. IX....4260

Edward B. Howell—Vol. IX....4263

Edward B. Howell—Vol. IX (cross-examination)....4273

Edward B. Howell—Vol. IX (redirect examination)....4301

Edward B. Howell—Vol. IX (recross-examination)....4308

Edward B. Howell—Vol. IX (redirect examination)....4313

Page

Testimony on Behalf of Defendant—Continued:

Edward B. Howell—Vol. IX (recross-examination).....4315

Elijah W. Hoyt—Vol. III.....1100

Elijah W. Hoyt—Vol. III (cross-examination)..1105

Elijah W. Hoyt—Vol. III (redirect examination).....1120

Elijah W. Hoyt—Vol. III (recross-examination).....1124

Charles A. Jakways—Vol. VIII.....4039

Charles A. Jakways—Vol. VIII (cross-examination).....4065

Charles A. Jakways—Vol. VIII (redirect examination).....4155

Charles A. Jakways—Vol. VIII (recross-examination)..4169

Charles A. Jakways—Vol. VIII (redirect examination).....4177

Louis Jakways—Vol. VIII.....3940

Louis Jakways—Vol. VIII (cross-examination).....3947

Louis Jakways—Vol. VIII (redirect examination).....3974

Louis Jakways—Vol. VIII (recross-examination).....3977

Albert Jemison—Vol. III (recalled).....1057

Albert Jemison—Vol. III (cross-examination)..1059

Jacob F. Jemison—Vol. III (recalled).....1158

Charles Jemison—Vol. III.....1327

Testimony on Behalf of Defendant—Continued: Page
William J. Kendall—Vol. VIII.....3980
William J. Kendall—Vol. VIII (cross-examination).....3985
William J. Kendall—Vol. VIII (redirect examination).....3993
William J. Kendall—Vol. VIII (recross-examination).....3994
William J. Kendall—Vol. VIII (redirect examination).....4006
Ernest R. Kilburn—Vol. X.....4883
Ernest R. Kilburn—Vol. X (cross-examination).....4900
Ernest R. Kilburn—Vol. X (redirect examination).....4965
Ernest R. Kilburn—Vol. X (recross-examination).....4970
Thomas C. Marshall—Vol. VIII.....3801
Thomas C. Marshall—Vol. VIII (cross-examination).....3807
Thomas C. Marshall—Vol. VIII (redirect examination).....3840
Thomas C. Marshall—Vol. VIII (recross-examination).....3846
George H. MacDougall—Vol. XII.....6099
Charles H. McLeod—Vol. VIII.....3773
Charles H. McLeod—Vol. VIII (cross-examination).....3779
Charles H. McLeod—Vol. VIII (redirect examination).....3799

Page

Testimony on Behalf of Defendant—Continued:

Albert F. Muchmore—Vol. VIII.....4027

Albert F. Muchmore—Vol. VIII (cross-examination).....4029

Albert F. Muchmore—Vol. VIII (redirect examination).....4035

Albert F. Muchmore—Vol. VIII (recross-examination).....4036

Oliver E. Muchmore—Vol. X (recalled).....4999

Oliver E. Muchmore—Vol. X (cross-examination).....5005

Oliver E. Muchmore—Vol. X (redirect examination).....5009

Bernard Noon—Vol. IX.....4677

Bernard Noon—Vol. IX (cross-examination)...4680

Bernard Noon—Vol. IX (redirect examination).4687

Bernard Noon—Vol. IX (recross-examination).4688

John M. Peers—Vol. X.....4981

John M. Peers—Vol. X (cross-examination)....4988

Clarence R. Prescott—Vol. VIII.....3721

Clarence R. Prescott—Vol. VIII (cross-examination).....3723

Clarence R. Prescott—Vol. VIII (redirect examination).....3732

Clarence R. Prescott—Vol. VIII (recross-examination).....3734

Clarence R. Prescott—Vol. VIII (redirect examination).....3764

Page

Testimony on Behalf of Defendant—Continued:

Clarence R. Prescott—Vol. VIII (recross-examination) 3768

Clarence R. Prescott—Vol. VIII (redirect examination).....3774

J. H. T. Ryman—Vol. XII 5933

J. H. T. Ryman—Vol. XII (cross-examination).5934

Jasper B. Seely—Vol. VIII 4180

Jasper B. Seely—Vol. VIII (cross-examination) 4185

Jasper B. Seely—Vol. VIII (redirect examination) 4203

Jasper B. Seely—Vol. VIII (recross-examination) 4206

Henry C. Stiff—Vol. XII 5935

Henry C. Stiff—Vol. XII (cross-examination)..5945

Henry C. Stiff—Vol. XII (redirect examination) 5971

Henry C. Stiff—Vol. XII (recross-examination) 5978

Henry C. Stiff—Vol. XII (redirect examination) 5982

Henry C. Stiff—Vol. XII (recross-examination) 5984

Henry C. Stiff—Vol. XII (recalled—cross-examination) 6103

Frank Vogel—Vol. VIII.....3877

Frank Vogel—Vol.VIII (cross-examination) ..3887

Frank Vogel—Vol. VIII (redirect examination) 3920

Frank Vogel—Vol. VIII (recross-examination) 3927

Frank Vogel—Vol. VIII (redirect examination) 3935

Frank Vogel—Vol. VIII (recross-examination) 3935

Frank Vogel—Vol. VIII (recalled) 3936

Marion B. Watson—Vol. X 5010

Page

Testimony on Behalf of Defendant—Continued:

Marion B. Watson—Vol. X (cross-examination) 5027

Marion B. Watson—Vol. X (redirect examination) 5087

Marion B. Watson—Vol. X (recross-examination) 5091

Emerson B. Weirick—Vol. XII 6043

Emerson B. Weirick—Vol. XII (cross-examination) 6047

Emerson B. Weirick—Vol. XII (redirect examination) 6065

Emerson B. Weirick—Vol. XII (recross-examination) 6067

A. H. Wethey—Vol. IX 4385

A. H. Wethey—Vol. IX (cross-examination) .. 4467

A. H. Wethey—Vol. IX (redirect examination) 4650

A. H. Wethey—Vol. IX (recross-examination) 4657

A. H. Wethey—Vol. IX (redirect examination) 4674

A. H. Wethey—Vol. IX (recross-examination) 4675

C. C. Willis—Vol. XII 5985

C. C. Willis—Vol. XII (cross-examination) 5991

C. C. Willis—Vol. XII (redirect examination).. 6001

United States Circuit Court of Appeals, for the Ninth Circuit.

THE UNITED STATES OF AMERICA,
Appellant,
vs.
WILLIAM A. CLARK,
Appellee.
No. 1070.

Stipulation as to Printing Record.

It is hereby stipulated and agreed by the parties to the above-entitled cause, by their solicitors, that in the printing of the record in the above-entitled cause the clerk shall omit therefrom the following, namely: The statements of the entrymen and entrywomen appearing on page 10 to and including page 90, inclusive; also the warranty deeds of said entrymen and entrywomen appearing at page 141 to and including page 545, in Volume I; also the abstract of title from the Missoula County abstract office which appear in Volume II of the transcript of record, from page 4 to 358, both inclusive.

Dated, May 27th, 1904.

P. C. KNOX,
Attorney General,
M. C. BURCH,
United States Attorney,
CARL RASCH,
United States Attorney, District of Montana,
FRED A. MAYNARD,
Special Assistant United States Attorney,
Solicitors for Complainant.
WALTER M. BICKFORD,
Attorney and Solicitor for Defendant.

[Endorsed]: Stipulation under Rule 23. Filed June 18, 1904. F. D. Monckton, Clerk. By Meredith Sawyer, Deputy Clerk.

In the Circuit Court of the United States, Ninth Circuit, District of Montana.

THE UNITED STATES OF AMERICA,
Complainant and Appellant;

vs.

WILLIAM A. CLARK.
Defendant and Appellee.

Order Extending Time to Docket Cause.

Good cause being shown therefor, it is ordered that the time for filing the transcript on appeal herein, with the Clerk of the United States Circuit Court of Appeals, Ninth Circuit, be, and the same is hereby extended until the 15th day of April, 1904. And the appellant shall have until said time within which to file said transcript of the record on appeal in this cause.

Dated this 8th day of February, 1904.

HIRAM KNOWLES,
Judge.

[Endorsed]: No. 1070. United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Appellant, vs. William A. Clark, Appellee. Order Extending Time to File Transcript. Filed Feb. 12, 1904. F. D. Monckton, Clerk.

THE UNITED STATES OF AMERICA.

The Circuit Court of the United States, for the Ninth Circuit, and District of Montana.

IN EQUITY.

THE UNITED STATES OF AMERICA,
Complainant,
vs.
WILLIAM A. CLARK.

Caption.

Be it remembered that on the 24th day of June, 1901, the complainant filed its bill of complaint herein, which is entered of final record, as follows, to wit:

THE UNITED STATES OF AMERICA.

The Circuit Court of the United States, for the Ninth Circuit and District of Montana.

IN EQUITY.

THE UNITED STATES OF AMERICA,
Complainant,
vs.
WILLIAM A. CLARK.

Bill of Complaint.

To the Judges of the Circuit Court of the United States for the District of Montana:

Your orator, the United States of America, by P. C. Knox, Attorney General of the United States, brings this

bill of complaint against William A. Clark of Montana, and a citizen of the State of Montana, and thereupon your orator complains and says:

First.

That heretofore, on the first day of January, 1898, said complainant was the owner in fee simple of certain lands of the value of ten thousand dollars and upwards, situated in the District of Montana, in the State of Montana, and described as follows, to wit:

The northeast quarter of the northeast quarter, and the south half of the northeast quarter of section 17, township 21 north, range 10 east; also the southwest quarter of the northeast quarter, the north half of the southeast quarter, and the southeast quarter of the southeast quarter of section 12, township 14 north, range 13 west; also the south half of the northwest quarter and the north half of the southwest quarter of section 12, township 14 north, range 13 west; also the north half of the northeast quarter of section 10, township 15 north, range 12 west; also the southwest quarter of the northwest quarter, the west half of the southwest quarter, and the southeast quarter of the southwest quarter of section 2, township 15 north, range 12 west; also the southwest quarter of section 10, township 14 north, range 13 west; also the southeast quarter of the northeast quarter, the east half of the southeast quarter, and the northwest quarter of the southeast quarter of section 10, township 14 north, range 13 west; also the southwest quarter of section 24, township 15 north, range 12 west; also the west half of the northwest quarter and the southeast quarter of the northwest quarter of section 24,

township 15 north, range 12 west; also lots 3 and 4 and the south half of the northwest quarter of section 4, township 15 north, range 12 west; also the east half of the northwest quarter and the east half of the southwest quarter of section 10, township 15 north, range 12 west; also the southeast quarter of section 12, township 15 north, range 12 west; also the northeast quarter of the southeast quarter, the east half of the northeast quarter and the northwest quarter of the northeast quarter of section 14, township 15 north, range 12 west; also the northeast quarter of section 18, township 15 north, range 12 west; also the southeast quarter of section 2, township 15 north, range 13 west; also lots 4, 5, 6, and 7, section 6, township 15 north; range 14 west; also the west half of the southeast quarter, the southwest quarter of the northeast quarter, and the southeast quarter of the southwest quarter of section 6, township 15 north, range 14 west; also lots 2 and 3, and the southeast quarter of the northwest quarter and the northeast quarter of the southwest quarter of section 6, township 15 north, range 14 west; also lot 1 and the southeast quarter of the northeast quarter and the east half of the southeast quarter of section 6, township 15 north, range 14 west; also the northwest quarter of section 24, township 15 north, range 14 west; also lots 1 and 2 and south half of the northeast quarter of section 4, township 15 north, range 12 west; also the north half of the southeast quarter, the northeast quarter of the southwest quarter and the southeast quarter of northwest quarter of section 12, township 14 north, range 14 west; also the southeast quarter of section 2, township 15 north, range 14 west;

also the west half of the northeast quarter, and lots 2 and 3 of section 8, township 15 north, range 14 west; also the northeast quarter of section 12, township 14 north, range 14 west; also the northwest quarter of section 8, township 14 north, range 13 west; and lots 3 and 4 and the east half of the southwest quarter of section 18, township 14 north, range 13 west; also the west half of the southwest quarter, the northeast quarter of the southwest quarter and the southwest quarter of the northwest quarter of section 2, township 15 north, range 14 west; also the north half of the southwest quarter and the northeast quarter of the southwest quarter and the southeast quarter of the northeast quarter of section 24, township 14 north, range 14 west; also the north half of the northwest quarter, the southeast quarter of the northwest quarter and the southwest quarter of the northeast quarter of section 24, township 14 north, range 14 west; also the south half of the southeast quarter, the northwest quarter of the southeast quarter and the northeast quarter of the southwest quarter of section 6, township 14 north, range 13 west; also the east half of the northeast quarter, the north half of the southeast quarter of section 18, township 14 north, range 13 west; also the west half of the northeast quarter, the southeast quarter of the northwest quarter, and lot 2 of section 18, township 14 north, range 13 west; also lots 5, 6, and 7, and the southeast quarter and the southeast quarter of the southwest quarter of section 6, township 14 north, range 13 west; also lots 1 and 2 and the east half of the northwest quarter of section 18, township 16 north, range 14 west; also the north half of the northeast quarter

of section 18, township 16 north, range 14 west; also lots 3 and 4 and east half of the southwest quarter of section 18, township 16 north, range 14 west; also the northwest quarter of section 10, township 14 north, range 15 west; also the southwest quarter of section 10, township 14 north, range 15 west; also the west half of the southwest quarter, the northeast quarter of the southwest quarter and the southwest quarter of the northwest quarter of section 4, township 14 north, range 15 west; also the southeast quarter of section 4, township 14 north, range 15 west; also the west half of the northwest quarter and the west half of the southwest quarter of section 12, township 14 north, range 15 west; also the east half of the southeast quarter, the southwest quarter of the southeast quarter and the southeast quarter of the southwest quarter of section 12, township 14 north, range 15 west; also the west half of the northwest quarter and the north half of the southwest quarter of section 8, township 14 north, range 15 west; also the southeast quarter of the northeast quarter, the north half of the southeast quarter and the southeast quarter of the southeast quarter of section 14, township 14 north, range 15 west; also the northeast quarter of section 10, township 14 north, range 16 west; also the east half of the northwest quarter and the east half of the southwest quarter of section 10, township 14 north, range 16 west; also the southwest quarter of section 4, township 14 north, range 16 west; also the west half of the northwest quarter and the west half of the southwest quarter of section 10, township 14 north, range 16 west; also the east half of the northeast quarter and the east half of the

southeast quarter of section 28, township 15 north, range 16 west; also the southeast quarter of section 10, township 15 north, range 15 west; also the southwest quarter of section 10, township 15 north, range 15 west; also the west half of the northwest quarter and the northeast quarter of the northwest quarter of section 10, township 15 north, range 15 west; also lots 1, 2 and 3 of section 2, township 15 north, range 15 west; also lots 1, 2 and 3 of section 4, township 15 north, range 15 west; also lot 4 and north half of the southwest quarter of section 4, township 15 north, range 15 west; also lots 2 and 3 and the east half of the southwest quarter of section 6, township 15 north, range 15 west; also lots 1, 2, 7 and 8 of section 32, township 15 north, range 15 west; also lots 3, 4, 5 and 6 of section 32, township 15 north, range 15 west; also the southwest quarter of section 2, township 13 north, range 15 west; also the northwest quarter of section 8, township 14 north, range 16 west; also the west half of the southeast quarter of section 32, township 14 north, range 16 west; also the south half of the southeast quarter and the south half of the southwest quarter of section 8, township 14 north, range 15 west; also the east half of the northeast quarter, the southwest quarter of the northeast quarter and the northwest quarter of the southeast quarter of section 8, township 14 north, range 15 west; also the south half of the southwest quarter and the south half of the southeast quarter (lots 10, 11, 12) of section 6, township 14 north, range 15 west; also the east half of the northwest quarter and the east half of the southwest quarter of section 34, township 15 north, range 16 west; also the

west half of the southeast quarter and the south half of the southwest quarter of section 26, township 15 north, range 16 west; also the south half of the southwest quarter, the northeast quarter of the southwest quarter and the southeast quarter of the northwest quarter of section 28, township 15 north, range 16 west; also the west half of the northeast quarter and the west half of the southeast quarter of section 28, township 15 north, range 16 west; also the west half of the northeast quarter and the west half of the southeast quarter of section 34, township 15 north, range 16 west; also the east half of the northeast quarter and the east half of the southeast quarter of section 34, township 15 north, range 16 west; also the west half of the northwest quarter and the west half of the southwest quarter of section 32, township 14 north, range 15 west; also the south half of the southwest quarter, the northeast quarter of the southwest quarter and lot 4 of section 12, township 15 north, range 15 west; also the northwest quarter of section 12, township 15 north, range 15 west.

And your orator further says that said lands were of such a character that the same might be sold to citizens of the United States or persons who had declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons at the minimum price of two dollars and a half per acre, under and in pursuance of the provisions of an Act of Congress entitled, "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," approved June 8, 1878; and

the further act of Congress amendatory thereto entitled, "An act to authorize the entry of lands chiefly valuable for building stone under the placer mining laws," approved August 4, 1892.

But such citizens or persons, as a condition precedent to the purchase of said lands, were by the terms of said acts of Congress required to file a written statement in duplicate to be verified by the oath of each applicant setting forth among other things, that he did not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; that he had not directly or indirectly made any agreement or contract in any way or manner, with any person or persons whatsoever, by which the title he might acquire from the Government of the United States, should inure in whole or in part to the benefit of any person except himself.

And your orator further shows that at sometime subsequent to the first day of January, 1898, aforesaid but at what precise date cannot now be stated, one R. M. Cobban, of Missoula, in the said State and District of Montana, claiming to act for the use and benefit of the defendant herein, in so doing, set about the business of procuring the titles to and possession of the hereinbefore described lands from your orator. That in pursuance of such avowed purpose said Cobban entered into a contract in writing with one C. L. Griswold of Clearwater, in said State and District, which contract bears date the 22d day of May, 1899, for the stipulated purpose therein in substance stated of obtaining lands

from your orator under the acts of Congress hereinbefore cited and which could only be carried out and accomplished by procuring false and fraudulent statements in writing and under oath, and false and fraudulent proofs to be reduced to writing and sworn to and subscribed by the parties who should enter the lands in parcels not exceeding in the aggregate one hundred and sixty acres to each; that said Cobban in and about said business associated with himself also one John B. Catlin, of Missoula, in said State and District; that the three parties, Cobban, Griswold and Catlin by and through themselves and others examined the lands, procured various persons, of both sexes, for hire to enter lands under said act, paying their expenses and those of their witnesses, and paying the price required to be paid at the proper land offices of the United States within the jurisdiction of which said parcels of land were respectively situated; that after such sworn statements were made by the persons so employed and the final proofs made respectively and the money paid for witnesses' expenses, entrymen and entrywomen's expenses, land office fees and the price required by said acts of Congress so cited.

And the several entrymen and entrywomen who had thus acted were paid compensation respectively, all directly or indirectly by said R. M. Cobban, who took deeds to himself for said lands from the several parties who entered the several parcels respectively; and that said Cobban thereafter conveyed the same to said defendant, William A. Clark; that the various parties so made use of as entrymen and entrywomen and the parcels of land entered in the names and through the acts of each are hereinafter set forth in detail, person by person, and parcel by parcel and are as follows: * * *

* * *

And your orator further states that one Harriet Bryan, of Missoula, in said district, filed with the proper officers of the United States land office at Missoula, in said district, a sworn statement, serial number 259 of said office, and did subsequently on the 4th day of September, 1899, make and file final proofs, and on or about the 4th day of September, 1899, a receiver's receipt was issued in her name for the said heretofore described lands, namely: South half of the southeast quarter and south half of the southwest quarter section twenty-six, township fifteen north, range fifteen west, which receipt was afterwards delivered or sent to R. M. Cobban, of Missoula, Montana, by the officials of said land office; that your orator is informed and therefore charges that no purchase money paid for said land at said office was furnished by the said Harriet Bryan, who entered said lands; but, on the contrary, that the same, as well as all moneys paid for the land office fees in connection with said entry, as well as the personal expenses of said Harriet Bryan and witnesses, were furnished and paid, directly or through agents, by one R. M. Cobban, in pursuance of an agreement with said Harriet Bryan that such lands should be conveyed to him, said Cobban, or his order, as soon as possible after such final proofs were made, the fees upon such entries, and the purchase money paid, and the receiver's final receipt for said land issued. And your orator states that said

* * *

NOTE: For balance of Statements, see volume marked "SUPPLEMENTAL VOLUME TO PLEADINGS." These Statements were originally omitted by stipulation of counsel (see page 1 of this record,) and were later printed upon request of counsel for appellant.

proofs so made before the officers at said land office respecting such entry were false and fraudulent, in that said Harriet Bryan did apply to purchase the said described land on speculation, and did not in good faith purchase the same to appropriate them to her own exclusive use and benefit; and in that she had made a contract or agreement with another person by which the title she might acquire to said land from the Government of the United States, should inure wholly to the benefit of another person except herself; and that soon after such receipt was issued the said Harriet Bryan executed and delivered a deed for said lands to said Cobban, who thereafter executed a deed for the same to defendant which bears date the 16th day of September, 1899, and is recorded. But the Patent of the United States therefor was not issued to the said Harriet Bryan for a long time after.

And your orator further states that one Eveline Jamison, of Victor, in said district, filed with the proper officers of the United States land office at Missoula, in said district, a sworn statement, serial number 279 of said office, and did subsequently on the 7th day of October, 1899, make and file final proofs, and on or about the 7th day of October, 1899, a receiver's receipt was issued in her name for the said heretofore described lands, namely: West half of the northwest quarter and west half of southwest quarter of section thirty-six, township fifteen north, range sixteen west, which receipt was afterwards delivered or sent to herself by the officials of said land office; that your orator is informed and

therefore charges that no purchase money paid for said land at said office was furnished by the said Eveline Jamison, who entered said lands; but, on the contrary, that the same, as well as all moneys paid for the land office fees in connection with said entry, as well as the personal expenses of said Eveline Jamison and witnesses, were furnished and paid, directly or through agents, by said R. M. Cobban, in pursuance of an agreement with Eveline Jamison that such lands should be conveyed to him, said Cobban, or his order, as soon as possible after such final proofs were made, the fees upon such entries, and the purchase money paid, and the receiver's final receipt for said land issued. And your orator states that said proofs so made before the officers at said land office respecting such entry were false and fraudulent, in that said Eveline Jamison did apply to purchase the said described land on speculation, and did not in good faith purchase the same to appropriate them to her own exclusive use and benefit; and in that she had made a contract or agreement with another person by which the title she might acquire to said land from the Government of the United States, should inure wholly to the benefit of another person except herself; and that soon after such receipt was issued the said Eveline Jamison executed and delivered a deed for said lands to said Cobban, who thereafter executed a deed for the same to defendant but which is not recorded. But the Patent of the United States therefor was not issued to said Eveline Jamison till long after the said conveyance to defendant.

And your orator further shows that after the said several entries and conveyances were made, as hereinbefore stated and set forth, by the several parties mentioned, by and through the means adopted by the said Cobban, and the various deeds placed upon record as hereinbefore in detail stated; and patents procured in the names of said several parties from your orator placed on record in the proper counties wherein such lands were situated in most of the cases, that these patents, as well as the deeds from the said several parties to the said Cobban, were delivered to one A. H. Wethey, of Butte, Montana, who, as your orator is informed and therefore states, was at the time in the employ of said defendant as his secretary, said deeds and patents being so procured for the defendant's use and benefit, and that, as your orator is informed and therefore states, the lands hereinbefore mentioned, have nearly all been conveyed to said defendants, who now pretend and claim to own the same.

And your orator charges that the said defendant, William A. Clark well knew, in a general way, if not in detail, at the time the said conveyances of all of said lands were made to him by said Cobban, the facts hereinbefore stated, and well knew, and had good cause to know, that the said lands had been entered in violation of the laws of Congress under which said entries were made; and that the said several parties had entered the same for hire and upon speculation, and for the purpose of enabling him, the said defendant, to procure title to the same by evasion and violation of said laws of Congress.

To the end, therefore, that said defendant, William A. Clark may, if he can, show upon to this Court why your orator should not have the relief prayed for, but without oath (answer on oath being hereby expressly waived), and that the said several patents so fraudulently obtained from the United States as aforesaid be declared to be void, and ordered to be cancelled and held for naught, and that it be decreed that your orator is and was the owner in fee of such lands and is and was the owner of all timber and logs, if any, which may have been cut thereon or removed therefrom, and of all stone that may have been quarried, or removed therefrom.

And that the pretended title of said defendant to said lands be decreed to be void, and that he shall release and convey his pretended title and all interest claimed by him in and to said lands to your orator.

And that said defendant may account to your orator touching the value of any timber or stone which may have been cut or quarried or removed from said lands since such fraudulent entry.

And that said defendant, his attorneys, agents and workmen may be restrained by injunction of this court from cutting or removing any timber or lumber, or from quarrying or removing any stone, from said lands or any of them, during the pendency of this suit.

And that said defendant, his attorneys and agents be restrained by the injunction of this court from selling, deeding, encumbering or in any wise disposing of said lands or any parcel thereof during the pendency of this suit.

And that your orator may have such other and further relief in the premises as may be agreeable to equity.

May it please the Court to grant unto your orator the writ of injunction to be directed to the said defendant, William A. Clark, his attorneys, agents, or workmen, commanding them and each of them to desist and refrain from cutting any of the valuable timber or stone, or removing the same from the lands hereinbefore described. And also that he and they be required to desist and refrain from deeding away, conveying, or in any wise encumbering the whole or any part of said lands, pending the progress of this suit.

May it please the Court to grant unto your orator a writ of subpoena therein and thereby commanding the said William A. Clark, defendant, herein to be and appear before this Court on a date to be therein named then and there to abide and perform such decrees as the Court shall make in the premises and as shall be agreeable to equity and good conscience, and in accordance with the rules and practice of this Court.

P. C. KNOX,
Attorney General of the United States.

WILLIAM B. RODGERS,
United States District Attorney, District of Montana.

M. C. BURCH,
WILLIAM B. RODGERS,
FRED A. MAYNARD,
CARL RASCH,
Of Counsel.

No. 157. In the Circuit Court of the United States, Ninth Circuit, District of Montana. The United States vs. Wm. A. Clark. Bill in Equity. Filed and entered June 24th, 1901. Geo. W. Sproule, Clerk.

And thereafter on the 24th day of July, 1901, subpoena in equity was issued, which is entered of final record, as follows:

UNITED STATES OF AMERICA.

Circuit Court of the United States, Ninth Judicial Circuit, District of Montana.

IN EQUITY.

Subpoena Toties Quoties.

The President of the United States of America, Greeting, to William A. Clark:

You are hereby commanded, that you be and appear in said Circuit Court of the United States aforesaid, at the Court Room in Butte, on the 2d day of September, A. D. 1901, to answer a bill of complaint exhibited against you in said court by the United States of America, complainant, and to do and receive what the said Court shall have considered in that behalf. And this you are not to omit, under the penalty of five thousand dollars.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the United States, this 22d day of July,

in the year of our Lord one thousand nine hundred and one, and of our Independence the 126.

GEO. W. SPROULE,
Clerk.

By ————————,
Deputy Clerk.

Memorandum Pursuant to Rule 12, Supreme Court U. S.

You are hereby required to enter your appearance in the above suit, on or before the first Monday of September next, at the clerk's office of said Court, pursuant to said bill; otherwise the said bill will be taken pro confesso.

GEO. W. SPROULE,
Clerk.

By ————————,
Deputy Clerk.

P. C. KNOX,
Attorney General U. S.
M. C. BURCH,
FRED A. MAYNARD,
CARL RASCH,
WM. B. RODGERS,
U. S. Atty. Dist. of Montana, Solicitors for Complainant, Helena, Montana.

United States Marshal's Office,
District of Montana.

I hereby certify, that I received the within writ on the 23d day of July, 1901, and personally served the same on the 23d day of July, 1901, by delivering to, and leav-

ing with Wm. A. Clark, said defendant named therein personally, at Butte, in the county of Silver Bow, in said District, a copy thereof.

Helena, July 24th, 1901.

J. P. WOOLMAN,
U. S. Marshal.
By David Micklejohn,
Deputy.

[Endorsed]: No. 157. U. S. Circuit Court, Ninth Circuit, District of Montana. In Equity. United States of America vs. Wm. A. Clark. Subpoena, Toties Quoties. Filed July 24, 1901. Geo. W. Sproule, Clerk. By T. B. Stephens, Deputy Clerk.

And thereafter on the 28th day of September, 1901, the defendant filed its amended answer herein, which is entered of final record as follows, to wit:

UNITED STATES OF AMERICA.

In the Circuit Court of the United States for the Ninth Circuit and District of Montana.

UNITED STATES OF AMERICA,
Complainant,
vs.
W. A. CLARK.

Amended Answer.

To the Judges of the Circuit Court of the United States for the District of Montana:

Comes now the defendant and files this his amended

answer in the above-entitled cause, leave of Court being first had and obtained so to do.

The defendant now and at all times hereafter saving to himself all and all manner of benefit of exception or otherwise that can or may be had or taken to the manifold errors, uncertainties or imperfections in the said bill contained for answer thereto, or to so much thereof as this defendant is advised it is material or necessary for him to make answer to, answering says:

Admits that on the first day of January, 1898, said complainant was the owner in fee simple of the certain tracts, pieces or parcels of land mentioned and described in plaintiff's complaint herein filed, situate in the District of Montana, in the State of Montana, and as described in plaintiff's complaint except as to the northeast quarter of the northeast quarter and the south half of the northeast quarter, section seventeen T. 21 N., R. 10 E., and as to said tract of land the defendant avers that he has not sufficient knowledge upon which to base a belief, and does not now, and never has, claimed any right, title or interest in or to said tracts of land.

Defendant admits, that all the rest, residue and remainder of the lands mentioned and described in the complaint herein filed were of such a character that the same might be sold to citizens of the United States or to persons who had declared their intentions to become such in quantity not to exceed one hundred and sixty (160) acres to any one person or association of persons at the minimum price of two dollars and fifty cents

($2.50) per acre under and in pursuance of an act of Congress, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada and Washington Territory," approved June 8th, 1878; and the further act of Congress amendatory thereto, entitled, "An act to authorize the entry of lands chiefly valuable for building stone under the placer mining law," approved August 4th, 1892, and admits that as a condition precedent to the purchase of the said lands such citizens or persons were by the terms of the said act of Congress required to file a written statement in duplicate, verified by the oath of each applicant, setting forth among other things that he did not apply to purchase the same on application, but in good faith to appropriate it to his own express use and benefit, and that he had not directly or indirectly made any agreement or contract in any way or manner with any person or persons whatsoever by which the title he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself.

Further answering, this defendant denies, that at a day or date subsequent to January first, 1898, or at any other time one R. M. Cobban claimed or pretended to act for the use or benefit of this defendant, or that said Cobban ever did so act or claim to act for this defendant in the business of procuring the title to or the possession of lands either from the orator herein, or from any other person or party whatsoever, and denies that in pursuance of any agreement or contract by or

between the said Cobban and this defendant any lands were ever bought or procured or purchased except as hereinafter stated and more particularly set forth. And defendant avers with reference to the allegations of the bill in relation to certain contracts and agreement between R. M. Cobban and C. E. Griswold that the said parties did, as defendant is informed and believes, enter into a certain contract or agreement, or contracts or agreements, looking to the acquisition by said Cobban of the title to lands then belonging to the complainant, but defendant denies on information and belief that said contract or contracts, agreement or agreements could be carried out or accomplished only by procuring false or fraudulent statements in writing or under oath or otherwise, or false or fraudulent proof, subscribed or sworn to or otherwise, and defendant avers that such knowledge as he has concerning such contract or contracts, agreement or agreements, was obtained long after he acquired title to all of the said lands, and that at the time he acquired title to the said lands or any of them, and at the time the same or any of them were conveyed to him by said Cobban he had no knowledge or notice of any such contract or contracts, agreement or agreements.

Defendant further denies upon information and belief, that in obtaining title to any land or lands, or any of the tracts of land mentioned and particularly described in plaintiff's complaint there ever was presented any false or fraudulent proof, or that any such proofs were reduced to writing or sworn to or sub-

scribed by any party or parties who should or did enter land. As to whether said Cobban ever associated with himself one John B. Catlin defendant has not sufficient knowledge upon which to base or form a belief, and therefore denies the same. Denies upon information and belief that the three parties named, to wit, Cobban, Griswold and Catlin, either by or through themselves or others, or otherwise, either examined land or procured the same to be examined or paid the expenses of any person or persons or of any witness or witnesses, and denies that they or either of them paid the price required to be paid at the proper land office of the United States.

Denies upon information and belief that the several entrymen or entrywomen who made entries of the land as stated in the complaint herein filed were paid compensation either directly or indirectly by said R. M. Cobban, and alleges the facts to be, that said Cobban purchased said lands in the usual course of business and became the owner thereof in fee and that thereafter, and in the usual course of business, and after the said Cobban had presented to the defendant an abstract of title duly certified, and after the said abstract of title had been presented to defendant's counsel and the same had been favorably reported on by said counsel and only then did defendant purchase or agree to purchase said lands or any part or parcel thereof.

Defendant further alleges that at the time when the lands hereinafter mentioned were purchased by him final proof had been made thereon by each of said per-

sons to whom a final receipt had been given, and that each and all of the persons' names in the complaint herein filed as being the entrymen or entrywomen of the said land had made final proof before the register and receiver of the said land office in which entry was made, and had received their final receipts for the purchase price of the said land, and that the defendant had no knowledge as to who the entrymen or entrywomen were, but relied on the good faith of the various persons who had made such land entries and relying upon the good faith, watchfulness and care of the officers of the United States land office, and upon the final receipts issued by the register and receiver of the respective land offices, and relying upon the abstract of title, the advice of counsel and the deed showing the conveyance from the original entrymen to the said R. M. Cobban; that the defendant became a bona fide purchaser of the said land hereinafter described for a valuable consideration and without notice or knowledge of any fraud upon the part of anybody or any person directly or indirectly connected with said land, and thereupon became and now is the owner thereof.

That the said land purchased by defendant from said R. M. Cobban at different times are as follows, to wit:

The southwest quarter of the northeast quarter, the north half of the southeast quarter and the southeast quarter of the southeast quarter of section 12, township 4 north, range 13 west; the south half of the northwest quarter, and the north half of the southwest quarter of section 12, township 14 north, range 13 west.

The north half of the northeast quarter of section 10 township 15 north, range 12 west; the southwest quarter of the northwest quarter, the west half of the southwest quarter, and the southeast quarter of the southwest quarter of section 2, township 15 north, range 12 west; the southwest quarter of section 30 in township 14 north, range 13 west. The southeast quarter of the northeast quarter, the east half of the southeast quarter, and the northwest quarter of the southeast quarter of section 10, township 14 north, range 13 west. Lots three and four, and the south half of the northwest quarter of section 4, township 15 north, range 12 west; the east half of the northwest quarter, and the east half of the southwest quarter of section 10, township 15 north, range 12 west; the southeast quarter of section 12, township 15 north, range 12 west; the northeast quarter of the southeast quarter, the east half of the northeast quarter and the northwest quarter of the northeast quarter of section 14, township 15 north, range 12 west. Lots four, five, six and seven of section 6, township 15 north, range 14 west; the west half of the southeast quarter; the southwest quarter of the northeast quarter; and the southeast quarter of the southwest quarter of section 6, township 15 north, range 14 west. Lots two and three, and the southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter of section 6, township 15 north, range 14 west. Lots one, the southeast quarter of the northeast quarter, and the east half of the southeast quarter of section 6, township 15 north,

range 14 west; the northwest quarter of section 24, township 15 north, range 14 west. Lots one and two, and the south half of the northeast quarter of section 4, township 15 north, range 12 west; the north half of the southeast quarter, the northeast quarter of the southwest quarter, and the southeast quarter of the northeast quarter of section 12, township 14 north, range 14 west; the southeast quarter of section two, township 15 north, range 14 west; the west half of the northeast quarter and lots two and three of section 8, township 15 north, range 14 west; the southeast quarter of section 12, township 14 north, range 14 west. Lots three and four, and the east half of the southwest quarter of section 18, township 14 north, range 13 west; the west half of the southwest quarter, the northwest quarter of the southwest quarter, and the southwest quarter of the northwest quarter of section 2, township 15 north, range 14 west; the north half of the southeast quarter, the northeast quarter of the southwest quarter, and the southeast quarter of the northeast quarter of section 24, township 14 north, range 14 west; the north half of the northwest quarter, the southeast quarter of the northwest quarter, and the southwest quarter of the northeast quarter of section 24, township 14 north, range 14 west; the south half of the southeast quarter, the northeast quarter of the southwest quarter, and the northeast quarter of the southwest quarter of section 6, township 14 north, range 13 west; the east half of the northeast quarter and the north half of the southeast quarter of section 18, township 14 north,

range 12 west; the west half of the northeast quarter, and the southeast quarter of the southwest quarter, and lot two of section 18, township 14 north, range 13 west. Lots five, six and seven and the southeast quarter of the southwest quarter of section 6, township 14 north, range 13 west. Lots one and two and the east half of the northwest quarter of section 18, township 16 north, range 14 west; the north half of the northeast quarter of section 18, township 16 north, range 14 west. Lots three and four, and the east half of the southwest quarter of section 18, township 16 north, range 14 west; the northwest quarter of section 10, township 14 north, range 15 west; the southwest quarter of section 10, township 14 north, range 15 west; the west half of the southwest quarter, the northeast quarter of the southwest quarter, and the southwest quarter of the northwest quarter of section 4, township 14 north, range 15 west; the southeast quarter of section 4, township 14 north, range 15 west; the west half of the northwest quarter and the west half of the southwest quarter, section 12, township 14 north, range 15 west; the east half of the southeast quarter, and the southwest quarter of the southeast quarter and the southeast quarter of the southwest quarter of section 12, township 14 north, range 15 west; the west half of the northwest quarter, and the north half of the southwest quarter of section 8, township 14 north, range 15 west; the southeast quarter of the northeast quarter, the north half of the southeast quarter and the southeast quarter of the southeast quarter of section 14, township 14

north, range 15 west; the northeast quarter of section 10, township 14 north, range 16 west; the east half of the northwest quarter, and the east half of the southwest quarter of section 10, township 14 north, range 16 west; the southwest quarter of section 4, township 14 north, range 16 west; the west half of the northwest quarter and the west half of the southwest quarter of section 10, township 14 north, range 16 west; the east half of the northeast quarter and the east half of the southeast quarter of section 28, township 15 north, range 16 west; the southeast quarter of section 10, township 15 north, range 15 west; the southwest quarter of section 10, township 15 north, range 15 west; the west half of the northwest quarter, the northeast quarter of the northwest quarter of section 10, township 15 north, range 15 west. Lots one, two and three of section 2, township 15 north, range 15 west. Lots one, two and three of section 4, township 15 north, range 15 west. Lot four and the north half of the southwest quarter of section 4, township 15 north, range 15 west. Lots two and three, and the east half of the southwest quarter of section 6, township 15 north, range 15 west. Lots one, two, seven and eight of section 32, township 15 north, range 15 west. Lots three, four, five and six of section 32, township 15 north, range 15 west.

The southwest quarter of section 2, township 13 north, range 15 west; the northwest quarter of section 8, township 14 north, range 16 west; the west half of the southeast quarter of section 32, township 14 north, range 16 west. The south half of the southeast quar-

ter, and the south half of the southwest quarter of section 8, township 14 north, range 15 west. The east half of the northeast quarter, the southwest quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section 8, township 14 north, range 15 west; the south half of the southwest quarter, and the south half of the southeast quarter of section 6, township 14 north, range 15 west; the east half of the northwest quarter, and the east half of the southwest quarter of section 34, township 15 north, range 16 west; the west half of the southeast quarter and the south half of the southwest quarter of section 26, township 15 north, range 16 west; the south half of the southwest quarter, the northeast quarter of the southwest quarter, and the southeast quarter of the northwest quarter of section 28, township 15 north, range 16 west; the west half of the northeast quarter and the west half of the southeast quarter of section 28, township 15 north, range 16 west; the west half of the northeast quarter and the west half of the southeast quarter of section 34, township 15 north, range 16 west; the east half of the northeast quarter and the east half of the southeast quarter of section 34, township 15 north, range 16 west. The west half of the northwest quarter and the west half of the southwest quarter of section 32, township 14 north, range 15 west. The south half of the southwest quarter, and the northeast quarter of the southwest quarter and lot four of section 12, township 15 north, range 15 west; the northwest quarter of section 12, township 15 north, range 15 west; the south

half of the southwest quarter, the northeast quarter of the southwest quarter, and southwest quarter of the southeast quarter of section 2, township 15 north, range 15 west; the west half of the northwest quarter of section 20, township 16 north, range 15 west; the south half of the northeast quarter and the west half of the southeast quarter of section 4, township 14 north, range 16 west; the north half of the southwest quarter, the southwest quarter of the southwest quarter and the southwest quarter of the northwest quarter of section 22, township 15 north, range 16 west; the northwest quarter of section 32, township 16 north, range 16 west; the southwest quarter of section 32, township 15 north, range 16 west; the south half of the northeast quarter and the north half of the southeast quarter of section 22, township 15 north, range 16 west; the north half of the northwest quarter, and the southeast quarter of the northwest quarter and the northeast quarter of the southwest quarter of section 26, township 15 north, range 16 west; the south half of the southeast quarter, and the south half of the southwest quarter of section 26, township 15 north, range 15 west; the west half of the northwest quarter, and the west half of the southwest quarter of section 34, township 15 north, range 16 west.

That at no time did this defendant purchase the land described as being the northeast quarter of the northeast quarter and the south half of the northeast quarter of section 17, township 21, north, range 10 east, and he is not now, and never has been, the owner of said land.

Defendant further answering says: That he never, at any time, purchased the land described as being the southwest quarter of section 24, T. 15 N., R. 12 W. The west half of the northwest quarter, and the southeast quarter of the northwest quarter of section 24, T. 15 N., R. 12 W. The northeast quarter of section 18, T. 15 N., R. 12 W. The southeast quarter of section 2, T. 15, N., R. 13 W., but did purchase from the various owners of the said land the timber standing and growing thereon, and that said lands were at the time of said purchase, as shown by the abstract of title, the property of the said Cobban, and in his possession, and were bought by this defendant of the said Cobban in good faith, and for a valuable consideration, and without any notice of fraud.

Further answering the complaint herein filed, defendant denies that he knew in a general or in any other way any facts mentioned in the complaint or otherwise, to the effect that the land entries mentioned in said complaint were made in any other than the usual legitimate and lawful manner of such entries, and denies that he at any time knew that all or any of such land entries had not been made in a legal, lawful and legitimate manner. Denies upon information and belief that said land or any of the said lands have or had been entered in violation of any law of Congress, or that said several parties or any of them have or ever did enter said or any lands or any parts thereof for hire or upon speculation or for the purpose of enabling defendant to procure title thereto by evasion, and denies that de-

fendant knew or had cause to know such facts, and denies that any act or thing done in or about the premises has been done in violation of the laws of Congress, and denies that defendant either knew or had cause to know that said lands or any of them had been entered in violation of the laws of Congress. Denies generally and specifically each and every charge and allegation in the bill contained wherein he, the said defendant, is charged with either the knowledge or the commission of any act or fraud, covin or evasion, or of any violation of any law of the Congress of the United States.

For a further answer, and as new matter constituting a defense to the plaintiff's alleged cause of action against the defendant, and as affirmative matter bearing upon the questions at issue, defendant alleges:

First.—That he the said defendant, is a citizen of the United States over the age of twenty-one years, and a resident of the State of Montana.

Second.—That on the 29th day of July, 1899, defendant purchased from one R. M. Cobban and his wife Alice M. Cobban, the following named and described tracts, pieces, or parcels, of land, situate in the county of Missoula, State of Montana, to wit: The north half of the northwest quarter, the northeast quarter of the northeast quarter of the southeast quarter, and the northwest quarter of the southwest quarter of section 32, in township 13 north, range 15 west. And at said time and in said deed also purchased from the parties all of the saw and tie timber growing and being upon the south half of the south half of section 18, township

16 north of range 15 west, together with the right of removal from the said land at any time within ninety-nine (99) years of the date hereof. That at the time when said Cobban sold unto this defendant the said above-described land he, the said Cobban, claimed to this defendant to own the same, and that he did own and was in the possession of said land, and that he at that time exhibited to this defendant a good and sufficient abstract of title to said land, showing that he, the said Cobban, did own the same, and that defendant submitted the said abstract of title to his attorneys and was by them advised that the same was correct, and that the title to said land was in the said Cobban, whereupon this defendant relying upon the representations of the said Cobban and upon the said abstract of title, and upon the advice of his said attorneys, defendant purchased said land, paying therefore the sum of five thousand four hundred and thirty-seven dollars and fifty ($5,437.50) cents, in lawful money of the United States, which said sum of money was accepted by the said Cobban as payment in full for said land. That defendant was and is an innocent purchaser of the said land in good faith and for a valuable consideration, and at the time of said purchase and the payment therefor, he had no information or knowledge of any fact or facts which would lead him to believe that the title to said land was in question, and that he had no notice, either actual or constructeive, of any fraud upon the part of his grantor or any other person whomsoever.

Third.—That on the 29th day of July, 1899, defendant

purchased from R. M. Cobban, and his wife, Alice M. Cobban, the following named and described tracts, pieces, or parcels of land situate in the County of Deer Lodge, State of Montana, to wit: The south half of the southwest quarter and the west half of the southeast quarter of section 8, township 15 north, range 14 west; the southeast quarter of section 14, township 15 north, range 15 west. Lot numbered two, and the southwest quarter of the northeast quarter, and the west half of the southeast quarter of section 6, township 15 north, range 13 west. The west half of the northwest quarter, the west half of the southwest quarter, and the southeast quarter of the northwest quarter, the southwest quarter of the northeast quarter, the northwest quarter of the southeast quarter, and the northeast quarter of the southwest quarter, of section 26, township 14 north, range 14 west. That at the time when said Cobban sold unto this defendant said above described land, he the said Cobban, claimed to this defendant to own the same, and that he owned and was in possession of said land, and he at that time exhibited to this defendant a good and sufficient abstract of title to said land, showing that he, the said Cobban, did own the same, and that defendant submitted the said abstract of title to his attorneys and was by them advised that the same was correct, and that the title to said land was in the said Cobban, whereupon this defendant relying upon the representations of the said Cobban, and upon the said abstract of title, and upon the advice of his said attorneys, defendant purchased said land,

paying therefor the sum of seven thousand six hundred and fifty-six dollars and twenty-five ($7,656.25) cents in lawful money of the United States, which said sum of money was accepted by the said Cobban as payment in full for said land. That defendant was and is an innocent purchaser of the said land in good faith and for a valuable consideration, and at the time of said purchase and the payment therefor, he had no information no knowledge of any fact or facts which would lead him to believe that the title to said land was in question, and that he had no notice either actual or constructive of any fraud upon the part of his grantor or of any other person whomsoever.

Fourth.—That on the 16th day of September, 1899; defendant purchased from R. M. Cobban and his wife Alice M. Cobban, the following named and described tracts, pieces or parcels of land situate in the county of Missoula, State of Montana, to wit: The east half of the southeast quarter, the northwest quarter of the southeast quarter of section 6; the northeast quarter of section 8; the southeast quarter of section 10; the northwest quarter of section 8, all in township 14 north, range 16 west. The northeast quarter of secion 28, the northwest quarter of section 12, and southeast quarter of section 2, all in township 13 north, range 16 west. The west half of the northwest quarter of section 20, township 16 north, range 15 west. The east half of the southeast quarter, and the east half of the northeast quarter, section 22, township 15 north, range 15 west. All of that portion of the northeast quarter of the

southeast quarter and the south half of the northeast quarter, and the southeast quarter of the northwest quarter and the south half of the southwest quarter of section 26, and that portion of the south half of the southwest quarter of section 2, all in township 15 north, range 15 west, being in the county of Missoula. And at said time and in said deed also purchased from the said parties all of the saw and tie timber growing and being upon the east half of the northeast quarter, and the east half of the southeast quarter, and the east half of the southwest quarter, and the west half of the southeast qauarter, section 30; and the east half of the southeast quarter; the southwest quarter of the southeast quarter, and the southeast quarter of the southwest quarter, in section 20, all in township 13 north, range 15 west. That at the time when said Cobban sold unto this defendant the said above-described land he, the said Cobban, claimed to this defendant to own the same, and that he did own and was in possession of said land, and he at that time exhibited to this defendant a good and sufficient abstract of title to said land, showing that he, the said Cobban, did own the same, and that defendant submitted the same abstract of title to his attorneys, and was by them advised that the same was correct, and that the title to said land was in the said Cobban, whereupon this defendant relying upon the representations of the said Cobban, and upon the said abstract of title, and upon the advice of his said attorneys, defendant purchased said land, paying therefor the sum of fifteen thousand and thirty-one dollars and twenty-five ($15,-

031.25) cents, in lawful money of the United States, which said sum of money was accepted by said Cobban as payment in full for said land. That defendant was, and is, an innocent purchaser of the land in good faith and for a valuable consideration and at the time of said purchase and the payment therefor he had no information or knowledge of any fact or facts which would lead him to believe that the title to said land was in question, and that he had no notice, either actual or constructive of any fraud upon the part of his grantor or any other person whomsoever.

Fifth.—That on the 16th day of September, 1899, defendant purchased from R. M. Cobban, and his wife, Alice M. Cobban, the following named and described tracts, pieces or parcels of land situate in the county of Deer Lodge, State of Montana, to wit: The southeast quarter of section 12, the northeast quarter of the southeast quarter; the east half of the northeast quarter, and the northwest quarter of the northeast quarter of section 14; the east half of the northwest quarter and the east half of the southwest quarter of section 10. Lots three and four, and the south half of the northwest quarter of section 4; the south half of the southwest quarter; the south half of the southeast quarter of section 14; the west half of the northwest quarter and the west half of the southwest quarter of section 10; the south half of section 4; the southwest quarter of the northwest quarter; the west half of the southwest quarter, and the southeast quarter of the southwest quarter of section 2; the north half of the northeast quarter of

section 10, all in township 15 north, range 12 west. Also the southeast quarter of the northeast quarter, the east half of the southeast quarter, and the northwest quarter of the southeast quarter of section 10; the southwest quarter of section 10, the south half of the northwest quarter, the north half of the southwest quarter section 12; the southwest quarter of the northeast quarter; the north half of the southeast quarter; and the southeast quarter of the southeast quarter of section 12; all in township 14 north, range 13 west. Also the south half of the southwest quarter, the northeast quarter of the southwest quarter, and the southwest quarter of the southeast quarter, section 2 township 15 north, range 15 west. The south half of the southwest quarter, and the south half of the southeast quarter, and the northeast quarter of the southeast quarter, the south half of the northeast quarter, and the southeast quarter of the northwest quarter of section 26, all in township 3, north, range 3 west M. M. That at said time and since, this party has been in the peaceable all of the said and the timber growing and being upon the southeast quarter; the southwest quarter; the west half of the northwest quarter; and the southeast quarter of the northwest quarter of section 22, township 15 north range 12 west, M. M. That at the time when said Cobban sold unto this defendant the said above-described land, he, the said Cobban, claimed to this defendant to own the same, and that he did own and was in possession of said land, and he at that time exhibited to this defendant a good and sufficient abstract of title

to said land, showing that he, the said Cobban, did own the same, and that defendant submitted the said abstract of title to his attorneys, and was by them advised that the same was correct, and that the title to said land was in the said Cobban; whereupon this defendant, relying upon the representations of the said Cobban, and upon the said abstract of title, and upon the advice of his said attorneys, defendant purchased said land, paying therefor the sum of twenty-one thousand, eight hundred and seventy-five ($21,875.00) dollars in lawful money of the United States, which said sum of money was accepted by the said Cobban as payment in full for said land. That defendant was and is an innocent purchaser of the said land in good faith and for a valuable consideration, and at the time of said purchase and the payment therefor he had no information or knowledge of any fact or facts which would lead him to believe that the title to said land was in question, and that he had no notice, either actual or constructive, of any claim upon the part of the United States, or any other person whomsoever.

Sixth—That on the 11th day of November, 1899, defendant purchased from E. M. Cobban, and his wife, Alice M. Cobban, the following-named and described tracts, pieces and parcels of land, situate in the county of Missoula, State of Montana, to wit: Lots one and two, and the south half of the northeast quarter, and the southwest quarter of section 2, in township 13 north, range 16 west; the southeast quarter of section 4, the south half of the southeast quarter, the south half of

the southwest quarter of section 8; the east half of the northeast quarter, the southwest quarter of the northeast quarter, the northwest quarter of the southeast quarter of section 8; the south half of the southwest quarter; the south half of the southeast quarter of section 6; the southwest quarter of section 10; the west half of the southwest quarter, the northeast quarter of the southwest quarter; the southwest quarter of the northwest quarter of section 4; the west half of the northwest quarter, the north half of the southwest quarter of section 8; the northwest quarter of section 10, all in township 14 north, range 15 west; the west half of the southeast quarter of section 22; the northeast quarter of section 10, the northwest quarter of the northwest quarter of section 28; the south half of the northwest quarter; the west half of the southwest quarter of section 2; the east half of the northwest quarter, and the east half of the southwest quarter of section 10; the southwest quarter of section 12; the west half of the northwest quarter; the west half of the southwest quarter of section 10, all in township 14 north, range 16 west; the east half of the northeast quarter, and the east half of the southeast quarter, in section 28, township 15 north, range 16 west; the southeast quarter of the southwest quarter, and the west half of the northwest quarter, and the northeast quarter of the northwest quarter of section 10. Lots one, two and three, in section 4, and lot four and the north half of the southwest quarter, in section 4, and two and three, and the east half of the southwest quarter of section 6,

all in township 15 north, range 15 west; the west half of the northwest quarter and the west half of the southwest quarter, in section 34; the east half of the northwest quarter, and the east half of the southwest quarter of section 34; the west half of the southeast quarter; the south half of the southwest quarter of section 26; the south half of the southwest quarter; the northeast quarter of the southwest quarter; the southeast quarter of the northwest quarter of section 28; the west half of the northeast quarter, the west half of the southeast quarter of section 28; the west half of the northeast quarter, and the west half of the southeast quarter of section 34; the east half of the northeast quarter; the east half of the southeast quarter of section 34; all in township 15 north, range 16 west. Also lots one, two, seven and eight, being the southeast quarter and lots three, four, five and six, being the southwest quarter of section 32, township 15 north, range 15 west; the west half of the northwest quarter, the west half of the southwest quarter of section 32, township 14 north, range 15 west. And at said time and in said deed, also purchased from the parties all of the saw and tie timber growing and being upon the southwest quarter and the south half of the southeast quarter of section 34, and the north half of the northeast quarter and the north half of the of the northwest quarter of section 32, all in township 13 north, range 16 west; and the south half of lot two, all of lots three and four, and the southwest quarter of the northeast quarter; also ten acres described as being the southeast quarter of the northwest quarter

of the northeast quarter, all being in section 30, township 13 north, range 15 west. Also the southeast quarter of the northwest quarter of section 30, township 13 north, range 15 west, save and except ten acres of the same, which said ten acres excepted are described as follows:

Beginning at the northwest corner of the southeast quarter of the northwest quarter of section 30, township 13 north, range 15 west, running thence east 1040 feet; thence south 420 feet; thence west 1040 feet, and thence north 420 feet to the place of beginning. That at the time when said Cobban sold unto this defendant the said above-described land he, the said Cobban, claimed to this defendant to own the same, and that he did own and was in possession of said land, and he at that time exhibited to this defendant a good and sufficient abstract of title to said land, showing that he, the said Cobban, did own the same, and that the defendant submitted the said abstract of title to his attorneys, and was by them advised that the same was correct, and that the title to said land was in the said Cobban, whereupon this defendant relying upon the representations of the said Cobban, and upon said abstract of title, and upon the advice of his said attorneys, defendant purchased said land paying therefor the sum of thirty-five thousand five hundred and twelve dollars and fifty ($35,512.50) cents, in lawful money of the United States, which said sum of money was accepted by the said Cobban as payment in full for the said land. That defendant was and is an innocent purchaser of the said land in good faith and for a valuable consider-

ation, and at the time of said purchase and the payment therefor he had no information or knowledge of any fact or facts which would lead him to believe that the title to said land was in question, and that he had no notice, either actual or constructive, of any fraud upon the part of his grantor or any other person whomsoever.

Seventh.—That on the 13th day of November, 1899, defendant purchased from R. M. Cobban, and his wife, Alice M. Cobban, the following named and described tracts, pieces or parcels of land situate in the county of Deer Lodge, State of Montana, to wit: The south half of the southeast quarter, the northwest quarter of the southeast quarter, the northeast quarter of the southwest quarter of section 6; the west half of the northeast quarter, the southeast quarter of the northwest quarter, and lot two in section 18, and the east half of the northeast quarter, the north half of the southeast quarter of section 18, and lots five and seven, and the southeast quarter of the southwest quarter of section 6, the northwest quarter of section 8, lots three and four, and the east half of the southwest quarter of section 18, all in township 14 north, range 13 west; the northeast quarter of section 12, the north half of the northwest quarter, the southeast quarter of the northwest quarter, the southwest quarter of the northeast quarter of section 24, the north half of the southeast quarter, the northeast quarter, of the southwest quarter, the southeast quarter of the northwest quarter of section 24; the north half of the southeast quarter, the northeast quarter of the southwest quarter, and the southeast quar-

ter of the northwest quarter of section 12, all in township 14 north, of range 14 west; the west half of the southwest quarter, the northeast quarter of the southwest quarter, the southwest quarter of the northwest quarter of section 2, township 15 north, range 14 west; the east half of the southeast quarter, the southwest quarter of the southeast quarter, and the southeast quarter of the southwest quarter of section 12; the southeast quarter of the northeast quarter, the north half of the southeast quarter, the southeast quarter of the southeast quarter of section 14; the west half of the northwest quarter, the west half of the southwest quarter of section 12; all in township 14 north, range 15 west; the northwest quarter of section 24; lots four, five, six and seven, lots two and three, the southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter, and the west half of the southeast quarter, the southwest quarter of the northeast quarter, and the southeast quarter of the southwest quarter, and lot one, the southeast quarter of the northeast quarter, and the east half of the southeast quarter, all in section 6; and the southeast quarter of section 2, and the south half of the northeast quarter, and lots two and three in section 4; the west half of the northeast quarter; lots two and three in section 8; all in township 15 north, range 14 west; the south half of the southwest quarter, the northeast quarter of the southwest quarter, lot four, section 12; the northwest quarter of section 12, all in township 15 north, of range 15 west. Also lots one, two and

three in section 2; the north half of the northwest quarter in section 24; all in township 15 north, range 15 west; also lots one and two, and the south half of the northeast quarter of section 4; the east half of the northeast quarter, the east half of the southeast quarter of section 22, in township 15 north, range 12 west; the west half of the southeast quarter, and the east half of the southwest quarter of section 8, all in township 14 north, range 13 west. And at said time and in said deed also purchased from the parties all of the saw and tie timber growing and being upon the east half of the northeast quarter; the northwest quarter of the northeast quarter, the northeast quarter of the northwest quarter of section 24, the northeast quarter of section 18, all in township 15 north, range 12 west. The southeast quarter of section 2 in township 15 north, range 13 west. That at the time when said Cobban sold unto this defendant the said above described land, he, the said Cobban, claimed to this defendant to own the same, and that he did own and was in possession of the said land, and he at that time exhibited to this defendant a good and sufficient abstract of title to said land showing that he, the said Cobban, did own the same, and that defendant submitted said abstract of title to his attorneys and was by them advised that the same was correct, and that the title to said land was in the said Cobban, whereupon this defendant, relying upon the representations of the said Cobban and upon the said abstract of title and upon the advice of his said attorneys defendant purchased said land,

paying therefor the sum of thirty-three thousand seven hundred and eighteen dollars and seventy-five ($33,718.75) cents in lawful money of the United States, which said sum of money was accepted by the said Cobban as payment in full for said land. That defendant was and is an innocent purchaser of the said land in good faith and for a valuable consideration, and at the time of said purchase, and the payment therefor he had no information or knowledge of any fact or facts which would lead him to believe that the title to said land was in question, and that he had no notice, either actual or constructive, of any fraud upon the part of his grantor or any other person whomsoever.

Eighth.—That on the 9th day of January, 1900, the defendant purchased from R. M. Cobban and his wife, Alice M. Cobban, the following named and described tracts, pieces or parcels of land situate in the county of Deer Lodge, State of Montana, to wit: The northwest quarter and the north half of the northeast quarter of section 18, lots six and seven, the east half of the southwest quarter, the southeast quarter of the northwest quarter, the southwest quarter of the northeast quarter, and lots two and five of section 6 all in township 16 north, range 14 west; the southwest quarter of section 2 in township 13 north, range 15 west; the north half of the northeast quarter and the north half of the northwest quarter of section 26, township 15 north, range 15 west; the west half of the southwest quarter, and the south half of the northwest quarter of section 2, in township 14 north, range 15 west; the east half of

the northeast quarter and the northeast quarter of the southeast quarter section 34 in township 14 north, range 14 west. Lots one, two and three in section 12, township 15 north, range 15 west. Lots one, two and the southeast half of the southwest quarter, being the southwest quarter of section 30, township 15 north, range 13 west. That at the time when said Cobban sold unto this defendant the said above-described land, he, the said Cobban, claimed to this defendant to own the same, and that he did own and was in possession of said land and he at that time exhibited to this defendant a good and sufficient abstract of title to said land showing that he, the said Cobban, did own the same, and that defendant submitted the said abstract of title to his attorneys and was by them advised that the same was correct, and that the title to said land was in the said Cobban, whereupon this defendant relying upon the representations of the said Cobban and upon the said abstract of title, and upon the advice of his said attorneys, defendant purchased said land paying therefore the sum of nine thousand four hundred and eighty-one dollars and twenty-five ($9,481.25) cents in lawful money of the United States, which said sum of money was accepted by the said Cobban as payment in full for said land. That defendant was and is an innocent purchaser of the said land in good faith and for a valuable consideration, and at the time of said purchase and the payment therefor he had no information or knowledge of any fact or facts which would lead him to believe that the title to said land was in ques-

tion, and that he had no notice, either actual or constructive of any fraud upon the part of his grantor or any other person whomsoever.

Ninth.—That on the 9th day of January, 1900, the defendant purchased from R. M. Cobban, and his wife, Alice M. Cobban, the following named and described tracts, pieces or parcels of land situate in the county of Missoula, State of Montana, to wit: All of section 22, township 15 north, range 16 west; lots three and four, the south half of the northwest quarter, the south half of the northeast quarter and the west half of the southeast quarter of section 4, township 14 north, range 16 west; lots thirteen, fourteen, fifteen and sixteen in section 30, the south half of the northeast quarter, the northwest quarter of the northeast quarter, and the northeast quarter of the northwest quarter of section 4, west half of the southwest quarter, and the south half of the northwest quarter of section 2, and the east half of the southeast quarter and the northwest quarter of the southeast quarter, and the northeast quarter of the southwest quarter of section 20, and the southwest quarter of section 34, all in township 14 north, range 15 west; the south half of the northeast quarter and lots two and three in section six, and the southwest quarter of the northeast quarter, the northwest quarter of the southeast quarter, and the east half of the southwest quarter of section 2, township 14 north, range 16 west. The south half of the northeast quarter, the north half of the southeast quarter, and the northwest quarter and the southwest quarter of section 32, town-

ship 15 north, range 16 west. The south half of the northeast quarter, and the south half of the northwest quarter of section 30, the north half of the northwest quarter, the southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter of section 26, all in township 15 north, range 16 west; the north half of the northeast quarter, and the north half of the northwest quarter of section 26 in township 15 north, range 15 west; and the southwest quarter of section 2, township 15 north, range 15 west. And at said time and in said deed also purchased from the parties all of the saw and tie timber upon the west half of section 28, township 15 north, range 16 west. That at the same time when said Cobban sold unto this defendant said above described land he, the said Cobban, claimed to this defendant to own the same and that he did own and was in possession of said land, and he at that time exhibited to this defendant a good and sufficient abstract of title to said land, showing that he, the said Cobban, did own the same, and that defendant submitted the said abstract of title to his attorneys and was by them advised that the same was correct, and that the title to said land was in the said Cobban, whereupon this defendant relying upon the representations of the said Cobban and upon the said abstract of title and upon the advice of his said attorneys, defendant purchased said land, paying therefor the sum of eighteen thousand eight hundred and fifty dollars ($18,850.00) in lawful money of the United States, which said sum of money was accepted by the

said Cobban as payment in full for said land. The defendant was and is an innocent purchaser of the said land in good faith and for a valuable consideration, and at the time of said purchase and the payment therefor he had no information or knowledge of any fact or facts which would lead him to believe that the title to said land was in question, and that he had no notice, either actual or constructive, of any fraud upon the part of his grantor, or any other person whomsoever.

Tenth.—That on the 26th day of January, 1900, defendant purchased from R. M. Cobban and his wife, Alice M. Cobban, the following named and described tracts, pieces or parcels of land situate in the county of Missoula, State of Montana, to wit: The south half of the northeast quarter, and the southeast quarter of the northwest quarter of section 32, township 13 north, range 16 west; the east half of the northeast quarter and the east half of the southeast quarter of section 32, township 14 north, range 15 west; the south half of the northwest quarter, the north half of the southwest quarter, the east half of the northeast quarter, the southwest quarter of the northeast quarter and the northwest quarter of the southeast quarter of section 8, township 15 north, range 15 west, and the northeast quarter of section 10, township 14 north, range 15 west, all of Montana Meridian. That at the time when said Cobban sold unto this defendant said above described land, he, the said Cobban, claimed to this defendant to own the same and that he did own and was in possession of said land and he at that time ex-

hibited to this defendant a good and sufficient abstract of title to said lands, showing that he, the said Cobban, did own the same and that defendant submitted the said abstract of title to his attorneys and was by them advised that the same was correct, and that the title to said land was in the said Cobban; whereupon this defendant relying upon the representations of the said Cobban and upon the abstract of title, and upon the advice of his said attorneys, defendant purchased said land paying therefor the sum of four thousand nine hundred and thirty-one dollars and twenty-five ($4,931.25) cents in lawful money of the United States, which said sum of money was accepted by the said Cobban as payment in full for the said land. That defendant was and is an innocent purchaser of the said land in good faith and for a valuable consideration, and at the time of said purchase and the payment therefor he had no information or knowledge of any fact or facts which would lead him to believe that the title to said land was in question, and that he had no notice, either actual or constructive, of any fraud upon the part of his grantor or any other person whomsoever.

Eleventh.—That on the 15th day of June, 1900, defendant purchased from R. M. Cobban, and his wife, Alice M. Cobban, the following named and described tracts, pieces and parcels of land situate in the county of Missoula and county of Deer Lodge, State of Montana, those tracts situated in Missoula county being described as follows, to wit: The southeast quarter of section 8, township 14 north, range 16 west. And at

the same time and in said deed also purchased from the parties all of the saw and tie timber growing and being upon the northwest quarter of the northwest quarter the south half of the northwest quarter and the northwest quarter of the southwest quarter of section 6, township 14 north, range 16 west. Said tract situate in Deer Lodge County being described as follows, to wit: The southwest quarter of section 18, township 16 north, range 14 west. That at the time when said Cobban sold unto this defendant the said above described tract of land, he, the said Cobban, claimed to this defendant to own the same, and that he did own and was in possession of said land and he at that time exhibited to this defendant a good and sufficient abstract of title to said land, showing that he, the said Cobban, did own the same, and that defendant submitted the said abstract of title to his attorneys and was by them advised that the same was correct, and that the title to said land was in the said Cobban; whereupon this defendant relying upon the representations of the said Cobban, and upon the said abstract of title, and upon the advice of his said attorneys, defendant purchased said land paying therefor the sum of three thousand three hundred and twenty-five ($3,325.00) dollars in lawful money of the United States, which said sum of money was accepted by the said Cobban as payment in full for said land. That defendant was and is an innocent purchaser of the said land in good faith and for a valuable consideration, and at the time of said purchase and the payment

therefor he had no information or knowledge of any fact or facts which would lead him to believe that the title to said land was in question, and that he had no notice, either actual, or constructive, of any fraud upon the part of his grantor, or any other person whomsoever.

Defendant further alleges that the above and foregoing mentioned and described lands, deeded as aforesaid to the defendant by R. M. Cobban and Alice M. Cobban, his wife, comprises all of the lands mentioned and described in said complaint, and concerning which it is sought to obtain a forfeiture of the title, except the northeast quarter of the northeast quarter and the south half of the northeast quarter of section 17, township 21 north, range 10 east; and as to said land defendant is informed and believes, and therefore alleges the fact to be that said land is situated in Choteau County, in the State of Montana, and he never has and does not now claim any part or parcel thereof.

Wherefore, this defendant having fully answered, confessed, traversed, and avoided or denied all the matters in the said bill of complaint material to be answered, according to his best knowledge and belief, humbly prays this Honorable Court to enter its judgment that this defendant be dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained, and for

such further and other relief as to this Honorable Court may seem meet and in accordance with equity.

W. M. BICKFORD,

Solicitor for Defendant.

T. J. WALSH,

Counsel for Defendant.

United States of America,
District of Montana,
State of Montana,
County of Silver Bow.

W. M. Bickford, being first duly sworn according to law, deposes and says: That he is one of the attorneys for William A. Clark, the person named as defendant in the foregoing answer, and that at the time when it is necessary that this verification should be made, the said William A. Clark is absent from the State of Montana, and for that reason this affiant verifies the same; that he has read the foregoing answer and knows the contents thereof, and that the matters stated in said answer are true to his best knowledge, information and belief.

W. M. BICKFORD.

Subscribed and sworn to before me this 14th day of September, A. D. 1901.

[Seal] CHAS. F. CLEMONS,

Notary Public in and for the County of Silver Bow, State of Montana.

157. In the Circuit Court of the United States, Ninth Circuit, District of Montana. United States of America,

Complainant, vs. William A. Clark. Amended Answer. Filed Sept. 28, 1901. Geo. W. Sproule, Clerk.

And thereafter, on the 30th day of August, 1901, complainant filed its replication herein, which is entered of final record as follows, to wit:

THE UNITED STATES OF AMERICA.

The Circuit Court of the United States, for the Ninth Circuit, District of Montana.

IN EQUITY.

THE UNITED STATES OF AMERICA,
Complainant,
vs.
WILLIAM A. CLARK,
Defendant.

Replication.

The replication of the complainant, said United States of America, to the answer of William A. Clark, the said defendant.

This replicant, saving and reserving to itself all, and all manner of advantage of exception to the manifold errors, uncertainties and insufficiencies of the answer of the said defendant, for replication thereunto saith that it doth, and will aver, maintain and prove its said bill to be true, certain and sufficient in the law to be answered unto by

the said defendant. And that the said answer of the said William A. Clark is uncertain, untrue and insufficient to be replied unto by this replicant, without this, that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true. All which matters and things this replicant is ready to aver, maintain and prove, as this Honorable Court shall direct and humbly prays, as in and by its said bill it has already prayed.

P. C. KNOX,
Attorney General of the United States.

_____,
Solicitor for Complainant.

No. 157. The Circuit Court of the United States, for the Ninth Circuit and District of Montana. The United States of America, Complainant, vs. William A. Clark, Defendant. Replication. Filed and entered Aug. 30, 1901. Geo. W. Sproule, Clerk. By T. B. Stephens, Deputy.

And thereafter, on the 7th day of November, 1903, a final decree was entered herein, which is entered of final record as follows, to wit:

In the Circuit Court of the United States, Ninth Judicial Circuit, in and for the District of Montana.

UNITED STATES OF AMERICA, Complainant,

vs.

WILLIAM A. CLARK, Defendant.

Decree.

This cause having been heretofore submitted upon the proofs, and the Court having heard the arguments of counsel, and the cause having been finally submitted to the Court for its decision, and all and singular the law and the premises being by the Court here fully understood and duly considered, it is by the Court here:

Ordered, adjudged and decreed, that the complainant's bill in this suit be and the same is hereby dismissed.

Butte, Montana, November 7th, 1903.

HIRAM KNOWLES,
Judge.

[Endorsed]: No. 157. In the Circuit Court of the United States, Ninth Circuit, District of Montana. United States vs. W. A. Clark. Decree. Filed and Entered Nov. 7, 1903. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy Clerk.

In the Circuit Court of the United States, Ninth Judicial Circuit, in and for the District of Montana.

IN EQUITY.

UNITED STATES OF AMERICA,
Complainant,

vs.

WILLIAM A. CLARK,
Defendant.

Opinion.

Appearances:

FRED. A. MAYNARD, for the Complainant.
WALTER M. BICKFORD and
T. J. WALSH, for the Defendant.

In this suit the United States has filed its bill of complaint praying that certain patents, 82 in number, under which the defendant, William A. Clark, claims title to certain timber lands within the State of Montana, be set aside and annulled, upon the ground of alleged frauds committed by the patentees named in said patents in procuring the issue of the same.

The patentees obtained these patents for timber lands under the act of June 3d, 1878, as amended by the act of August 4th, 1892, and after having made final proof upon their several entries, and having received certificates of purchase from the proper officers of the United States land office for the Districts in which their several entries were situated, conveyed the same to one Robert M. Cob-

ban; the said Cobban conveyed the same to the defendant, William A. Clark.

The defendant, Clark, filed an answer to the bill in which he denies all of the material allegations therein contained, and sets up the defense to the effect that he was and is an innocent purchaser of said lands for a valuable consideration and without notice.

To this answer the general replication was filed and the case was referred and proofs taken.

The proof discloses the fact that Clark purchased the lands from Cobban for a valuable consideration before the patents were issued therefor by the Government. It is claimed on the part of the Government, that on account of this fact, Clark could not be a bona fide purchaser and was chargeable with notice of certain frauds alleged to have been committed by the patentees.

In support of this contention counsel for the Government has cited the following authorities:

U. S. vs. Steenerson, et al., 50 Fed. Rep. 504.

American Mortgage Company of Scotland, Ltd., vs. Hopper, et al., 56 Fed. Rep. 67. S. C., affirmed in 64 Fed Rep. 553.

Hawley vs. Diller, 75 Fed. Rep. 946.

Diller vs. Hawley, 81 Fed. Rep. 651.

Diller vs. Hawley, 178 U. S. 476.

U. S. vs. Bailey, 17 L. O. D. 468.

In all of the above cited cases no patent had been issued by the Government to the entrymen, and pending such issue of patent, and while the Land Department of the

Government had still full jurisdiction over the matter, the entries were canceled and patents refused.

The purchasers from the entrymen had made their purchase after the issue of certificates of purchase, but before the issue of patent, and claimed that the Land Department of the Government could not lawfully cancel such entries, and contended that they stood in the same position as if a patent had been issued to the entryman.

Under the practice of the Land Department of the United States any allowance of an entry for a patent can be recalled for sufficient reasons at any time before the actual issue of the patent therefor, and the entry of the applicant canceled. Anyone purchasing from an entryman who has received his final certificate of purchase only, purchases such interest in the land as the entryman has, subject to the right of the Land Department of the Government to review its action and refuse to issue the patent; this is a well known practice and often resorted to, and anyone purchasing from an entryman who has not obtained a patent, must take notice of the same; hence a purchaser under such circumstances is not entitled to the protection accorded an innocent purchaser for a valuable consideration and without notice. That is all that was decided by the cases above cited.

In the case at bar the Land Department had made no withdrawal of its approval of the right of the entrymen to a patent, but on the contrary, issued a patent to each of them, which they now hold, and has converted an otherwise equitable title into a full, legal title, and under the laws of Montana their after-acquired title inured to the

benefit of the defendant Clark. (See sec. 1512, Civil Code of Montana.)

The jurisdiction and power of the Land Department over these entries ceased wholly when the patents were issued, and it could not recall the same.

U. S. ex rel. McBride vs. Carl Schurtz, Secretary of the Department of the Interior, 102 U. S. 408.

It has often occurred that parties have purchased land from entrymen who had received certificates of purchase of the land sold, and subsequently patents have been issued therefor. In none of these cases has it been contended that the purchaser to whom the title inured after issue of the patent, was not considered entitled to the rights accorded to a bona fide purchaser under the law, if he was without notice of any fraud committed by the entryman.

In the case of Colorado Coal & Iron Co., 123 U. S. 307, the fact was presented that a purchase of some of the property, a patent to which was sought to be canceled and annulled, had been made before the patent was issued; this is the statement contained in the opinion:

"For these (entries) Hunt sent to Jackson deeds, duly executed, attested and acknowledged, accompanied by receiver's certificates in regular form, showing that the party named as grantor was entitled to a patent. These he was advised by counsel to accept and did accept in good faith, as being equivalent to patents."

That case was presented by eminent counsel and very carefully considered by the Supreme Court, and no suggestion was made that a purchaser of lands from an en-

tryman before patent issued was not to be considered as a bona fide purchaser after such patent was in fact issued, and thereby his equitable title had become merged into the full legal title.

If the doctrine contended for by counsel for the Government in this case should prevail, no purchaser of a title to Government land which has a foundation in a deed executed before patent issued, would be secure, and the insecurity pointed out, that would arise in the cases where it is sought to set aside and cancel patents against bona fide purchasers for alleged fraud on the part of the entryman would be ever present and could not be eliminated for the reason that the statute of limitations does not run against the Government. But let it be considered that the defendant Clark was bound to take notice of the different steps taken by the entrymen in obtaining these patents. What would he be required to take notice of? The records of the land office appear to have been in due form and correct; they were such as induced the Land Department to issue the proper patents to the entrymen and entrywomen. I do not think he could be required to be more astute than the land officers themselves; but suppose he had gone further and made inquiry of the various persons who made the entries and secured the final certificates of purchase from the proper officers of the Land Department, and upon inquiry had been told the same facts as were sworn to in the affidavits of these parties at the time when they made their final proofs and payment, and the same as was testified to at the hearing before the Special Examiner in this case? But it cannot be conceded

that there is any evidence that shows that Clark was put upon his inquiry as to the sources of his title.

There is absolutely no proof showing or tending to show, that Clark had any actual knowledge of the frauds alleged to have been committed by the entrymen and women. The evidence shows conclusively that Cobban was not the agent of Clark in the purchase of these lands. Cobban was the vendor.

In setting aside a patent issued by the Government, after the title has passed from the patentee to a third party, the rule laid down in U. S. vs. Maxwell Land Grant Company, 121 U. S. 325, as to the evidence necessary to authorize a court to do this, should be observed and control the court in a case like this; that rule is as follows:

"We take the general doctrine to be that when in a court of equity it is proposed to set aside, to annul or to correct a written instrument, for fraud or mistake in the execution of the instrument itself, the testimony on which this is done must be clear, unequivocal, and convincing, and that it cannot be done upon a bare preponderance of evidence which leaves the issues in doubt. If the proposition as thus laid down in the cases cited, is sound in regard to the ordinary contracts of private individuals, how much more should it be observed where the attempt is to annul the grants, the patents, and other solemn evidences of title emanating from the Government of the United States under its official seal. In this class of cases, the respect due to a patent, the presumptions that all the preceding steps required by law had been observed before its issue, the immense importance and necessity of the sta-

bility of titles dependent upon these official instruments, demand that the effort to set them aside, to annul them, or to correct mistakes in them should only be successful when the allegations on which this is attempted are clearly stated and fully sustained by proof. It is not to be admitted that the titles by which so much property in this country and so many rights are held, purporting to emanate from the authoritative action of the officers of the Government, and, as in this case, under the seal and signature of the President of the United States himself, shall be dependent upon the hazard of successful resistance to the whims and caprices of every person who chooses to attack them in a court of justice; but it should be well understood that only that class of evidence which commands respect and that amount of it which produces conviction, shall make such an attempt successful."

It is not necessary to consider the various contentions in this case upon the subject of the evidence admitted; all of the evidence presented in the record, whether objected to or not, would not change the ruling of this Court.

It should be observed, however, that there is a great deal of irrelevant testimony presented, and there has been an indulgence in asking leading questions of the witnesses for the complainant that it is unprecedented; it is claimed that these witnesses were hostile witnesses; there is no appearance, however, of unwillingness on the part of any of the witnesses to testify in the case; the witnesses were the witnesses of the complainant, and it ought to have been made to appear clearly, in the record, that these witnesses were hostile; they were not parties to the suit.

As to the witness Griswold, who was certainly a most willing witness for the complainant, the same practice was observed. It does not seem to me that in considering a case like this, under the rule laid down in the Maxwell Land Grant Case, supra, his testimony ought to be given any weight. According to his own admissions he had willfully, deliberately and corruptly sworn falsely as a witness for some of the entrymen and entrywomen who made proofs in the land office; he had also made an affidavit contradicting his evidence as to the agreement he had with Cobban, which agreement he previously claimed had authorized him to make contracts for the purchase of their lands with the entrymen and entrywomen before their final proofs were made in the land office. His general reputation for honesty and truthfulness was attacked in court by respectable witnesses, and he did not sufficiently rebutt this evidence. It was shown that he had received money from parties to suppress evidence concerning the alleged illegal cutting of timber upon the public domain. It was further show that he had received some kind of assurance from representatives of the Government that should he testify as he had stated to them he might be awarded public employment. What passed between him and the Department of the Interior upon this subject, that Department claimed as being privileged and refused to divulge. Such a witness as this could hardly furnish proofs clear and satisfactory.

If we consider the evidence of the entrymen and entrywomen we find that they positively and emphatically deny that they had made any contracts to convey the lands

to Cobban before final entry and purchase. While there may be suspicion that this evidence was not correct, and a supposition that there must have been made some contract between Cobban and themselves in regard to this matter, it must be borne in mind that these witnesses were witnesses produced by complainant, and except where the witness Griswold testified otherwise, no evidence was introduced to contradict this, and the Court is called upon by the complainant to find from its suspicion or supposition that there was such a contract. Cobban himself testified that he knew the law and knew that such a contract was in violation thereof, and that he was careful to make no such contract whatever; and again, Cobban was a witness for the complainant.

Considering all of this evidence it would seem that stronger cases for the setting aside of a patent for fraud on the part of the entryman were presented in the cases of Colorado Coal & Iron Co. vs. U. S., 123 U. S. 307, U. S. vs. Budd, 144 U. S. 154, and U. S. vs. Detroit Timber & Lumber Co., et als., 124 Federal Advance Sheets No. 3, page 393.

Considering the rule as to evidence necessary to establish fraud in such cases as this, and the rulings of the courts in the above cases, I am constrained to the view that it is not established that the entrymen and entrywomen and Cobban committed the frauds charged in the bill. For the above reasons the bill must be dismissed.

Butte, Montana, November 7th, 1903.

HIRAM KNOWLES,

Judge.

[Endorsed]: Title of Court and Cause. Opinion. Filed Nov. 7th, 1903. Geo. W. Sproule, Clerk.

United States of America,
District of Montana. } ss.

I, George W. Sproule, Clerk of the United States Circuit Court, Ninth Circuit, District of Montana, do hereby certify that the above and foregoing is a full, true and correct copy of the opinion of the Court as filed and of record in my office in case No. 157, United States versus W. A. Clark; that in making the transcript of record in said cause the same was inadvertently omitted therefrom.

Attest my hand and the seal of said Court at Helena, Montana, this 5th day of May, 1904.

[Seal] GEO. W. SPROULE,
Clerk.

[Endorsed]: No. 1070. United States of America vs. William A. Clark. Certified Copy Opinion of Knowles, D. J. Filed May 9, 1904. F. D. Monckton, Clerk.

Clerk's Certificate to Judgment-Roll.

Whereupon said pleadings, process and final decree are entered of final record in acordance with the law and practice of this court.

Attest my hand and seal of said court this 7th day of November, A. D. 1903.

[Seal] GEO. W. SPROULE.
Clerk.

And thereafter to wit, on the 19th day of January, 1904, the complainant filed its assignment of errors herein, as follows, to wit:

UNITED STATES OF AMERICA.

Circuit Court of the United States for the District of Montana, Ninth Circuit.

IN EQUITY.

THE UNITED STATES OF AMERICA,
Complainant,
vs.
WILLIAM A. CLARK,
Defendant.
No. 157.

Assignment of Errors.

And now, upon the —— day of January, A. D. 1904, comes the said complainant, by its solicitors, Philander C. Knox, Attorney General of the United States, Marsden C. Burch, United States Attorney, Carl Rasch, United States Attorney for the District of Montana, and Fred A. Maynard, Special Assistant United States Attorney, and says that in the record and proceedings of said court in the above-entitled cause, and in the final decree made and entered therein on the seventh day of November, 1903, there is manifest error and against the just rights of complainant, and for error the said complainant assigns the following:

I.

The decree is erroneous because the Court erred in not finding that the fact was established by the evidence that one Robert M. Cobban did illegally acquire title to the lands, named and described in the patents sought by the bill of complaint to be canceled, under an act of Congress entitled "An act for the sale of timber lands in the states of California, Oregon, Nevada and in Washington Territory," approved June 8th, 1878, and the further act of Congress amendatory thereto, entitled "An act to authorize the entry of lands chiefly valuable for building stone under the placer mining laws," approved August 4, 1892, commonly known as the Stone and Timber Act.

II.

The decree is erroneous because the Court erred in not finding that the fact was established by the evidence that in pursuance of such avowed purpose said Cobban entered into a contract with one C. L. Griswold on the 22d day of May, 1899, and that under and by virtue of the terms of said written contract titles to certain of the lands named and described in the bill of complaint were obtained in violation of said act of Congress.

III.

The decree is erroneous because the Court erred in not finding that the fact was established by the evidence that at or about the time of the making of said written contract, a certain other contract was made and entered into between said Cobban and said Griswold, by the terms of which the details of the plan by which said

lands were to be acquired were fully agreed upon, but which were not reduced to writing.

IV.

The decree is erroneous because the Court erred in not finding that the fact was established by the evidence that said Cobban, in and about said business of so illegally acquiring title to said lands, associated himself with one John B. Catlin, and that said Catlin did aid and assist him in the work of fraudulently and illegally securing possession of said lands and title thereto.

V.

The decree is erroneous because the Court erred in not finding that the fact was established by the evidence that said Cobban, aided and assisted by said Griswold, Catlin, Albert Jemison, Charles S. Jakways, Henry J. Faust and others, did examine said lands and procure various persons of both sexes for hire to enter lands under said act and did conduct the entrymen and entrywomen named in the bill of complaint to the lands which had been previously selected for them by said Cobban and his agents, and did pay to them and for their benefit all the money that was necessary to procure title to said claims; and in not finding that this was done fraudulently and in direct violation of said act of Congress.

VI.

The decree is erroneous because the Court erred in not finding that the fact was established by the evidence that said Cobban did enter into a contract and make a prior

agreement with various men and women, by the terms of which they were to respectively enter and take up one hundred and sixty acres of land for the use and benefit of said Cobban.

VII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that by the terms of said contract and agreement said Cobban was to advance to said entrymen and entrywomen all of the money that was necessary to enable them to purchase the lands entered by them under said act, and to defray all of their necessary expenses in connection therewith.

VIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that it was fully understood and agreed between said Cobban and said entrymen and entrywomen that they were to enter and take up the lands solely in the interest of said Cobban, and that they were as soon as possible after they had received receiver's duplicate final receipt, to convey by deed the lands so entered by them to said Cobban.

IX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the sole purpose which induced said entrymen and entrywomen to enter said lands, was the existence of this prior agreement by the terms of which said entrymen and entrywomen, on their conveying the lands so entered by them to Cobban, were to receive from him a certain sum

of money, over and above any sum which they might have advanced by reason of certain expenses incident to their taking up said lands in case they had advanced any money themselves, and that in nearly every case the sum so agreed to be paid by Cobban and received by the entrymen or entrywomen was the sum of one hundred dollars.

X.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that this said agreement was fully executed, and that by reason thereof said Cobban did obtain deeds from said entrymen and entrywomen, and thereby obtain such title to the lands named and described therein as said entrymen and entrywomen had thereto, which lands he, said Cobban, before the issuing of patents thereto, afterwards sold to the defendant, which lands are named and described in the patents which issued subsequent to said purchase by defendant, and which are named and described in the bill of complaint in this case, and for the cancellation of which bill was filed.

XI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said Cobban, in so fraudulently and illegally acquiring title to said lands, did act for the use and benefit of the defendant herein.

XII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that

one A. H. Wethey was at the time that these lands were being so illegally acquired by Cobban, the general manager and agent of the defendant at Butte, Montana, and that the deeds to said lands were delivered to said Wethey as such agent, and that he knew, or by the exercise of ordinary prudence could have known, of the fraudulent transactions and agreements which resulted in Cobban obtaining such title as he had in and to said lands.

XIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that A. H. Wethey, as the general manager of the defendant, did know that these lands were acquired by Cobban for the use and benefit of the defendant, prior to the execution of the deeds of conveyance to the defendant.

XIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said defendant, William A. Clark, well knew, in a general way if not in detail, that at the time the said conveyances of all of said lands were made to him by said Cobban, the facts hereinbefore stated, and well knew and had good cause to know that the said lands had been entered in violation of the laws of Congress under which such entries were made; and that said several parties had entered the same for hire and upon speculation and for the purpose of enabling him, the said defendant, to procure title to the same by evasion and violation of said laws of Congress.

XV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Charles Cloutier did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purcahse the same to appropriate them to his own exclusive use and benefit.

XVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Charles Cloutier had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said land from the Government of the United States, should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Charles Cloutier did execute and deliver a deed to said Cobban of said lands.

XVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one John Gillies did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XVIII.

The decree is erroneous because the Court erred in not

finding that the fact is established by the evidence, that the said John Gillies had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said land from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Charles Cloutier did execute and deliver a deed to said Cobban of said lands.

XIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Martha M. J. Doney did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

XX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Martha M. J. Doney had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said land from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued said Martha M. J. Doney did execute and deliver a deed to said Cobban of said lands.

XXI.

The decree is erroneous because the Court erred in not

finding that the fact is established by the evidence that one Edward D. Doney did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XXII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Edward D. Doney had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said land from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Edward D. Doney did execute and deliver a deed to said Cobban of said lands.

XXIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Thomas Nelky did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XXIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence

that the said Thomas Pelky had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said land from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Thomas Pelky did execute and deliver a deed to said Cobban of said lands.

XXV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one B. Frank Chatlin did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XXVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said B. Frank Chatlin had made a prior contract, or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said B. Frank Chatlin did execute and deliver a deed to said Cobban of said lands.

XXVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence

that one Elijah W. Hoyt did apply to purchase the lands named and described in the patent issued to him by the United States, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XXVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Elijah W. Hoyt had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to the saw and tie timber on said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Elijah W. Hoyt did execute and deliver to said Cobban a deed of said timber on said lands.

XXIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Charlotte S. Hoyt did apply to purchase the lands named and described in the patent issued to her by the United States, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

XXX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Charlotte S. Hoyt had made a prior con-

tract or agreement with R. M. Cobban by which the title she might acquire to the saw and tie timber on said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Charlotte S. Hoyt did execute and deliver to said Cobban a deed of said timber on said lands.

XXXI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Albert F. Muchmore did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XXXII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Albert F. Muchmore had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Albert F. Muchmore did execute and deliver to said Cobban a deed of said lands.

XXXIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Guy W. Muchmore did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XXXIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Guy W. Muchmore had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Guy W. Muchmore did execute and deliver to said Cobban a deed of said lands.

XXXV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Oliver E. Muchmore did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XXXVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Oliver E. Muchmore had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Oliver E. Muchmore did execute and deliver to said Cobban a deed of said lands.

XXXVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Elizabeth A. Muchmore did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

XXXVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Elizabeth A. Muchmore had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Elizabeth A.

Muehmore did execute and deliver to said Cobban a deed of said lands.

XXXIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Alfred Stewart did apply to purchase the lands named and described in the patent issued to him by the United States, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XL.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Alfred Stewart had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to the saw and tie timber on said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Alfred Stewart did execute and deliver to said Cobban a deed of said timber on said lands.

XLI.

The decree is erroneous because the Court erred in not finding that the fact is established from the evidence that one John B. Catlin did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good

faith purchase the same to appropriate them to his own exclusive use and benefit.

XLII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said John B. Catlin had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said John B. Catlin did execute and deliver to said Cobban a deed of said lands.

XLIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Nels O. Opsata did apply to purchase the lands named and described in the patent issued to him by the United States, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XLIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Nels O. Opsata had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to the saw and tie timber on said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued,

said Nels O. Opsata did execute and deliver to said Cobban a deed of said timber on said lands.

XLV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Belle Bryan Gillies did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

XLVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Belle Bryan Gillies had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Belle Bryan Gillies did execute and deliver to said Cobban a deed of said lands.

XLVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Leonard Barrott did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith

purchase the same to appropriate them to his own exclusive use and benefit.

XLVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Leonard Barrott had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Leonard Barrott did execute and deliver to said Cobban a deed of said lands.

XLIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Edgar Lehman did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

L.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Edgar Lehman had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon

after such receipt was issued said Edgar Lehman did execute and deliver to said Cobban a deed of said lands.

LI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Lelia S. Bryan did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

LII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Lelia S. Bryan had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Lelia S. Bryan did execute and deliver to said Cobban a deed of said lands.

LIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one May Hawthorne did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good

faith purchase the same to appropriate them to her own exclusive use and benefit.

LIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said May Hawthorne had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued said May Hawthorne did execute and deliver to said Cobban a deed of said lands.

LV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Harriet Watson did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

LVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Harriet Watson had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and

that in pursuance of such prior agreement, soon after such receipt was issued, said Harriet Watson did execute and deliver to said Cobban a deed of said lands.

LVII.

The decree is erroneous because the Court erred in not finding that the fact was established by the evidence that one Marion B. Watson did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

LVIII.

The decree is erroneous because the Court erred in not finding that the face is established by the evidence that the said Marion B. Watson had ever made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Marion B. Watson did execute and deliver to said Cobban a deed of said lands.

LIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Charles H. Moss did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith

purchase the same to appropriate them to his own exclusive use and benefit.

LX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Charles H. Moss had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Charles H. Moss did execute and deliver to said Cobban a deed to said lands.

LXI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Katie Watson did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

LXII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Katie Watson had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after

such receipt was issued, said Katie Watson did execute and deliver to said Cobban a deed to said lands.

LXIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Cora Dodd did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

LXIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Cora Dodd had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Cora Dodd did execute and deliver to said Cobban a deed to said lands.

LXV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Dick E. Watson did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith

purchase the same to appropriate them to his own exclusive use and benefit.

LXVI.

The decree is erroneous because the Court erred in not finding that the fact is established from the evidence that the said Dick E. Wason had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Dick E. Watson did execute and deliver to said Cobban a deed to said lands.

LXVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Charles B. Sperry did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

LXVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Charles B. Sperry had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban.

and that in pursuance of such prior agreement, soon after such receipt was issued, said Charles B. Sperry did execute and deliver to said Cobban a deed to said lands.

LXIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Thomas H. McConnell did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

LXX.

The decree is erroneous because the Court erred in not finding that the fact is established from the evidence that the said Thomas H. McConnell had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Thomas H. McConnell did execute and deliver to said Cobban a deed to said lands.

LXXI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Hiram Dodd did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled,

on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

LXXII.

The decree is erroneous because the Court erred in not finding that the fact is established from the evidence that the said Hiram Dodd had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Hiram Dodd did execute and deliver to said Cobban a deed to said lands.

LXXIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Harrison Dodd did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

LXXIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Harrison Dodd had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after

such receipt was issued, said Harrison Dodd did execute and deliver to said Cobban a deed to said lands.

LXXV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Matilda Dodd did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

LXXVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Matilda Dodd had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Matilda Dodd did execute and deliver to said Cobban a deed to said lands.

LXXVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Lizzie Dodd did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase

the same to appropriate them to her own exclusive use and benefit.

LXXVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Lizzie Dodd had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Lizzie Dodd did execute and deliver to said Cobban a deed for said lands.

LXXIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Vital Cyr did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

LXXX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Vital Cyr had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of said prior agreement, soon after

such receipt was issued, said Vital Cyr did execute and deliver to said Cobban a deed to said lands.

LXXXI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Levi B. Cyr did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

LXXXII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Levi B. Cyr had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Levi B. Cyr did execute and deliver to said Cobban a deed to said lands.

LXXXIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Mary J. Ehle did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

LXXXIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Mary J. Ehle had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Mary J. Ehle did execute and deliver to said Cobban a deed to said lands.

LXXXV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Jacob F. Jameson did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

LXXXVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said Jacob F. Jameson had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Jacob F. Jameson did execute and deliver to said Cobban a deed to said lands.

LXXXVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Albert Jameson did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

LXXXVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Albert Jameson had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Albert Jameson did execute and deliver to said Cobban a deed to said lands.

LXXXIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Joshua C. Gilman did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XC.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said Joshua C. Gilman had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Joshua C. Gilman did execute and deliver to said Cobban a deed of said lands.

XCI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one George P. Jamison did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XCII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said George P. Jamison had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said George P. Jamison did execute and deliver to said Cobban a deed of said lands.

XCIII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Sarah Yarger did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

XCIV.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that said Sarah Yarger had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Sarah Yarger did execute and deliver to said Cobban a deed to said lands.

XCV.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Emma Dildine did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XCVI.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Emma Dildine had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States, should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Emma Dildine did execute and deliver to said Cobban a deed to said lands.

XCVII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one George Dildine did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

XCVIII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said George Dildine had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said George Dildine did execute and deliver to said Cobban a deed to said lands.

XCIX.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Matilda Eddy did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

C.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Matilda Eddy had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Matilda Eddy did execute and deliver to said Cobban a deed to said lands.

CI.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Thomas Roll did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Thomas Roll had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Thomas Roll did execute and deliver to said Cobban a deed to said lands.

CIII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Abraham J. Jamison did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate the same to his own exclusive use and benefit.

CIV.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Abraham J. Jamison had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Abraham J. Jamison

did execute and deliver to said Cobban a deed to said lands.

CV.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one James W. Wheaton did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CVI.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said James W. Wheaton had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said James W. Wheaton did execute and deliver to said Cobban a deed of said lands.

CVII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Mary Eddy did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CVIII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Mary Eddy had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Mary Eddy did execute and deliver to said Cobban a deed to said lands.

CIX.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Herbert Eddy did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CX.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Herbert Eddy had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Herbert Eddy did execute and deliver to said Cobban a deed to said lands.

CXI.

The decree is erroneous, because the Court erred in not finding the fact to be established by the evidence that one Daisy Chattin did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CXII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Daisy Chattin had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Daisy Chattin did execute and deliver to said Cobban a deed to said lands.

CXIII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one John L. Deering did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXIV.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said John L. Deering had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said John L. Deering did execute and deliver to said Cobban a deed to said lands.

CXV.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one John Saleen did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXVI.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said John Saleen had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said John Saleen did execute and deliver to said Cobban a deed to said lands.

CXVII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Charles C. Snyder did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXVIII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Charles C. Snyder had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Charles C. Snyder did execute and deliver to said Cobban a deed of said lands.

CXIX.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Mathew P. Dunham did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXX.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Mathew P. Dunham had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Mathew P. Dunham did execute and deliver to said Cobban a deed to said lands.

CXXI.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Frank P. Arey did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXXII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Frank P. Arey had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Frank P. Arey did execute and deliver to said Cobban a deed to said property.

CXXIII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Dan McGillis did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXXIV.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that the said Dan McGillis had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Dan McGillis did execute and deliver to said Cobban a deed to said lands.

CXXV.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one Elvira M. Hardy did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CXXVI.

The decree is erroneous, because the Court erred in

not finding that the fact is established by the evidence that the said Elvira M. Hardy had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that, in pursuance of such prior agreement, soon after such receipt was issued, said Elvira M. Hardy did execute and deliver to said Cobban a deed of said lands.

CXXVII.

The decree is erroneous, because the Court erred in not finding that the fact is established by the evidence that one John H. Hardy did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXXVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said John H. Hardy had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said John H. Hardy did execute and deliver to said Cobban a deed to said lands.

CXXIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Effie M. Killburn did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CXXX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Effie M. Killburn had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Effie M. Killburn did execute and deliver to said Cobban a deed to said lands.

CXXXI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Arnold Michels did apply to purchase the lands named and described in the patent issued to him now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXXXII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Arnold Michels had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Arnold Michels did execute and deliver to said Cobban a deed to said lands.

CXXXIII.

The decree is erroneous because the Court erred in not finding that the fact is established from the evidence that one Clara Belle Michels did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CXXXIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Clara Belle Michels had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of said prior agreement, soon after such receipt was issued, said Clara Belle

Michels did execute and deliver to said Cobban a deed to said lands.

CXXXV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one William J. Eddy did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXXXVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said William J. Eddy had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of said prior agreement, soon after such receipt was issued, said William J. Eddy did execute and deliver to said Cobban a deed to said lands.

CXXXVII.

The decree is erroneous because the Court erred in not finding that the fact is established from the evidence that one Lavinia J. Gilman did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in

good faith purchase the same to appropriate them to her own exclusive use and benefit.

CXXXVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Lavinia J. Gilman had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of said prior agreement, soon after such receipt was issued, said Lavinia J. Gilman did execute and deliver to said Cobban a deed to said lands.

CXXXIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Percy M. Jamison did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXL.

The decree is erroneous because the Court erred in not finding that the fact is established from the evidence that the said Percy M. Jamison had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement,

soon after such receipt was issued, said Percy M. Jamison did execute and deliver to said Cobban a deed to said lands.

CXLI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one James Mise did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXLII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said James Mise had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of said prior agreement, soon after such receipt was issued, said James Mise did execute and deliver to said Cobban a deed to said lands.

CXLIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Laura Roll did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith pur-

chase the same to appropriate them to her own exclusive use and benefit.

CXLIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Laura Roll had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of said prior agreement, soon after such receipt was issued, said Laura Roll did execute and deliver to said Cobban a deed to said lands.

CXLV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Charles H. Jemison did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXLVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said Charles H. Jemison had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after

such receipt was issued, said Charles H. Jemison did execute and deliver to said Cobban a deed to said lands.

CXLVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Calvin Yarger did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CXLVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Calvin Yarger had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Calvin Yarger did execute and deliver to said Cobban a deed to said lands.

CXLIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Zora Jamison did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase

the same to appropriate them to her own exclusive use and benefit.

CL.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said Zora Jamison had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Zora Jamison did execute and deliver to said Cobban a deed to said lands.

CLI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Jennie Mise did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CLII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Jennie Mise had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon

after such receipt was issued, said Jennie Mise did execute and deliver to said Cobban a deed to said lands.

CLIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one John G. Hundryx did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CLIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said John G. Hundryx had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said John G. Hundryx did execute and deliver to said Cobban a deed to said lands.

CLV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Martha E. Wright did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith

purchase the same to appropriate them to her own exclusive use and benefit.

CLVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Martha E. Wright had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Martha E. Wright did execute and deliver to said Cobban a deed to said lands.

CLVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Lizzie T. Catlin did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CLVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said Lizzie T. Catlin had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban,

and that in pursuance of such prior agreement, soon after such receipt was issued, said Lizzie T. Catlin did execute and deliver to said Cobban a deed to said lands.

CLIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Oscar Muckenlienn did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CLX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said Oscar Muckenlienn had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt had been issued, said Oscar Muckenlienn did execute and deliver to said Cobban a deed to said lands.

CLXI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Stephen Tepper did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be can-

celed, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CLXII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Stephen Tepper had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Stephen Tepper did execute and deliver to said Cobban a deed to said lands.

CLXIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one John B. Reeve did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them to his own exclusive use and benefit.

CLXIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said John B. Reeve had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in

pursuance of such prior agreement, soon after such receipt was issued, said John B. Reeve did execute and deliver to said Cobban a deed to said lands.

CLXV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Robert Starkie did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same to appropriate them for his own exclusive use and benefit.

CLXVI.

The decree is erroneous because the Court erred in not finding that the fact was established by the evidence that said Robert Starkie had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Robert Starkie did execute and deliver to said Cobban a deed to said lands.

CLXVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Albert Ehle did apply to purchase the lands named and described in the patent issued to him by the United States now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase the same

to appropriate them for his own exclusive use and benefit.

CLXVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that said Albert Ehle had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Albert Ehle did execute and deliver to said Cobban a deed to said lands.

CLXIX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Eliza A. Reeve did apply to purchase the lands named and described in the patent issued to her by the United States now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CLXX.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Eliza A. Reeve had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such re-

ceipt was issued, said Eliza A. Reeve did execute and deliver to said Cobban a deed to said lands.

CLXXI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Mary A. Starkie did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CLXXII.

The decree is erroneous because the Court erred in not finding that the fact was established by the evidence that said Mary A. Starkie had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said Mary A Starkie did execute and deliver to said Cobban a deed to said lands.

CLXXIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one John Murtaugh did apply to purchase the lands named and described in the patent issued to him by the United States, now sought by the bill to be canceled, on speculation, and that he did not in good faith purchase

the same to appropriate them to his own exclusive use and benefit.

CLXXIV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said John Murtaugh had made a prior contract or agreement with R. M. Cobban by which the title he might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such receipt was issued, said John Murtaugh did execute and deliver to said Cobban a deed to said lands.

CLXXV.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Harriet Bryan did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CLXXVI.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Harriet Bryan had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban, and that in pursuance of such prior agreement, soon after such re-

ceipt was issued, said Harriet Bryan did execute and deliver to said Cobban a deed to said property.

CLXXVII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that one Eveline Jamison did apply to purchase the lands named and described in the patent issued to her by the United States, now sought by the bill to be canceled, on speculation, and that she did not in good faith purchase the same to appropriate them to her own exclusive use and benefit.

CLXXVIII.

The decree is erroneous because the Court erred in not finding that the fact is established by the evidence that the said Eveline Jamison had made a prior contract or agreement with R. M. Cobban by which the title she might acquire to said lands from the Government of the United States should inure wholly to said Cobban and that in pursuance of said prior agreement, soon after such receipt was issued, said Eveline Jamison did execute and deliver to said Cobban a deed to said lands.

CLXXIX.

The decree is erroneous because it misinterprets the law and its application to the evidence and the case presented for decision.

CLXXX.

The decree is erroneous because the Court erred in holding that the defendant was a bona fide purchaser

of the lands described in the patents sought to be canceled.

CLXXXI.

The decree is erroneous because the Court rejected and refused to recognize the rule of law that no person can acquire the rights of a bona fide purchaser under the Stone and Timber Act who buys before patent issues.

CLXXXII.

The decree is erroneous because the Court rejected and refused to recognize the rule of law that the doctrine of bona fides has no application whatever to the purchaser of mere equitable interests in land.

CLXXXIII.

The decree is erroneous because the Court refused to recognize and follow the rule of law that the defendant, by his purchase of the lands named and described in the patents sought to be canceled, only acquired such interests in said lands as the entrymen and entrywomen had at the time they obtained the receiver's duplicate final receipt, and that if by reason of their frauds and illegal acts they had no equitable interests in and to said lands, the defendant acquired none.

CLXXXIV.

The decree is erroneous because the Court refused to recognize the distinction between an innocent purchaser in fact and a bona fide purchaser in law.

CLXXXV.

The decree is erroneous because the Court refused to

recognize and follow the principle of law that notice to the defendant of the fact that patents had not as yet issued to the several entrymen and entrywomen at the time he purchased the lands from Cobban, who claimed under them, was all the notice that the law requires to inform the defendant that the legal title to said lands was still in the United States.

CLXXXVI.

The decree is erroneous because the Court refused to hold that the records disclosing the fact to the defendant that the title to the lands he was about to purchase from Cobban being still in the United States, he could not obtain the legal title thereto, and he was thereby put upon his inquiry as to the true state of the title and bought the lands at his peril, knowing that he could only buy what his vendor had to sell and that he could take no better title than his vendor's.

CLXXXVII.

The decree is erroneous because the Court refused to hold and recognize the principle of law that the doctrine of caveat emptor applies in the purchase of mere equitable interests in lands entered under the Stone and Timber Act where the same are sold before patent issues.

CLXXXVIII.

The decree is erroneous because the Court refused to hold and apply the principle of law that under the circumstances as disclosed by the record and the evidence in the case, the defendant or his general manager and

agent was bound to make such an investigation of the facts and circumstances connected with the obtaining of these titles by Cobban, from the several entrymen and entrywomen, as an ordinarily prudent man would have made, and that if said defendant or his authorized agent intentionally neglected to make such an investigation because they did not wish to know of the frauds which such an investigation would have disclosed, they could not claim any benefits arising from such intentional neglect.

CLXXXIX.

The decree is erroneous because the Court refused to hold and follow the rule of law that ignorance resulting from neglecting to make the inquiry and investigation which a business man, of ordinary prudence would have made, can never place a purchaser in a position where he can claim the rights of a bona fide purchaser.

CXC.

The Court erred in holding that the defendant stood in a better position than the entrymen and entrywomen under whom he claimed, by reason of the fact that subsequent to his purchase, the United States, in ignorance of their frauds and violation of law, issued its patents to them, and in applying the doctrine of relationship thereto.

CXCI.

The decree is erroneous because the Court refused to hold that under the facts and circumstances of this case, the doctrine of relationship has no application whatever.

CXCII.

The decree is erroneous because the Court refused to hold that the doctrine of relationship is a fiction of the law, adopted by the courts solely for the purposes of justice, and is never applied where the party who initiated the proceedings, by reason of his fraudulent acts, acquired no equitable claim or right to the title. In other words, the doctrine, when applied, always relates back to an equitable, never to a fraudulent, title.

CXCIII.

The decree is erroneous because the Court held that the issuance of the patents to said entrymen and entrywomen, under whom defendant claims, vested a complete and valid legal title in the defendant, notwithstanding said entrymen and entrywomen were guilty of fraud in the acquisition of their said claims.

CXCIV.

The decree is erroneous because the Court refused to hold that the fact that the United States, after the purchase of said lands by the defendant, did, in ignorance of the fraudulent acts of said entrymen and entrywomen and their willful violation of said act of Congress, issue its patents to them, did not thereby give to defendant the legal rights of a bona fide purchaser.

CXCV.

The decree is erroneous because the Court did not hold that as the United States, on ascertaining that the entrymen and entrywomen, to whom said patents issued, had obtained the same by fraud and perjury, could

have filed its bill against them for the cancelation of said patents; so, in like manner, can it file its bill for the same purpose against the defendant who stands in privity with them, or claims under them, and that all the law requires, in either case, is the complete establishment of the fraudulent acts alleged to have been committed by said entrymen and entrywomen.

CXCVI.

The decree is erroneous because the Court refused to recognize and follow the rule of law that required it, even on finding as a fact from the evidence that the defendant was an innocent purchaser of said lands and paid full value for the same, to still hold that the United States was entitled to a decree canceling each of the patents named and described in its bill of complaint, except in the four cases of Elijah W. Hoyt, Charlotte A. Hoyt, Alfred Stewart and Neils Opsata, who retained such interests as they acquired to the lands entered by them and only sold the saw and tie timber growing thereon, where the evidence completely established the fact that the same had been obtained by reason of the fraud and perjury of the entrymen and entrywomen, under whom defendant claimed, and in willful violation of the act of Congress under which said patents issued.

CXCVII.

The decree is erroneous because the Court refused to hold that as to the patents issued to the three entrymen and one entrywoman last named, the United States was entitled to a decree that said defendant acquired no

right, title or interest to the timber standing and growing thereon, by reason of said persons having, by reason of their fraudulent acts, acquired no equitable interest in and to the lands named and described in the patents issued to them, or in the timber standing and growing thereon.

CXCVIII.

The decree of the Court is erroneous in this: That the Court erred in holding that because the officers of the Land Department made no withdrawal of its approval of the right of the entrymen and entrywomen to a patent, but on the contrary issued a patent to each of them, that it hereby converted an otherwise equitable title into a full legal title, which, under the laws of Montana, as after acquired titles inured to the benefit of the defendant, for the reason that the evidence completely established the fact that the said entrymen and entrywomen never acquired any equitable title in and to said lands, by reason of their fraudulent acts, and that the patents were issued to them by the officers of the Land Department in ignorance of such fraudulent acts.

CXCIX.

The decree of the Court is erroneous because the Court refused to hold and decide that the Congress alone has the authority, under the Constitution, of enacting laws relative to the sale of the public lands of the United States, and that the legislature of Montana had, and has, no power to pass any law in conflict therewith.

CC.

The decree of the Court is erroneous in holding (as appears in its opinion of record) that by section 1512 of the Civil Code of Montana, defendant has a better title than that which he has or could obtain under the Act of Congress commonly known as the Stone and Timber Act.

CCI.

The decree is erroneous because the Court refused to hold that all the law requires, in order to entitle the United States to a decree as prayed in its bill, except in the four cases where the evidence discloses that the land was retained, was to completely establish the allegations of the bill relative to the original fraud which resulted in said entrymen and entrywomen receiving the receiver's duplicate final receipt, under and by virtue of which they sold, and that it was entirely unnecessary for the United States to allege or prove that the defendant had any knowledge of said frauds or in any way participated therein.

CCII.

The decree is erroneous because the Court refused to recognize and follow the rule that there is no ground for the application of the rules relative to equitable titles becoming merged into the full legal title, because such rules only apply when the equitable title exists, which is completely negative by the evidence in this case and the law applicable thereto.

CCIII.

The decree is erroneous because the Court erred in refusing to recognize and follow the principle of law that where adverse witnesses are called, the right of cross-examination exists.

CCIV.

The decree is erroneous because the Court refused to hold that all of the patents named and described in the bill of complaint which were issued to the entrymen and entrywomen named in this assignment of errors, save in the four cases where the titles to the lands were retained by them, should be canceled, because of the fraud of said entrymen and entrywomen, said Cobban and said defendant.

CCV.

The decree is erroneous because the Court refused to hold that all of the patents named and described in the bill of complaint which were issued to the entrymen and entrywomen named in the assignment of errors, save in the four cases where the titles to the lands were retained by them should be canceled because of the fraud of said entrymen and entrywomen, said Cobban and the constructive and implied fraud of said defendant.

CCVI.

The decree of the Court is erroneous because the Court refused to hold that the defendant and his agent Wethey had actual notice of said frauds before and at the time of the purchase of said lands by said defendant.

CCVII.

The decree of the Court is erroneous because the Court refused to hold that the defendant and his agent Wethey had constructive and implied notice of said frauds before and at the time of the purchase of said lands by said defendant.

CCIV.

The decree is erroneous because the Court erred in dismissing the bill of complaint in this case and in entering a final decree in favor of said defendant.

CCV.

The decree is erroneous because the Court erred in not canceling the patents issued to the entrymen and entrywomen named in the assignment of errors, except in the four cases where the title to the lands was not conveyed to the defendant on the ground that they had been obtained by their frauds and willful violation of the act of Congress under which they were entered, and on the further ground that the defendant, as he bought before such patents issued, stands in their shoes.

Wherefore the said complainant prays that the said decree be reversed, and that the said Court be directed to enter a decree in accordance with the prayer of the bill of complaint herein.

In order that the foregoing assignment of errors may be and appear of record, the complainant presents the same to the Court, and prays that such disposition be

made thereof as in accordance with law and the statutes of the United States in such case made and provided.

All of which is respectfully submitted.

PHILANDER C. KNOX,
Attorney General of the United States.

MARSDEN C. BURCH,
Special United States Attorney.

CARL RASCH,
United States Attorney for the District of Montana.

FRED A. MAYNARD,
Special Assistant United States Attorney for the District of Montana,

Solicitors for Complainant.

[Endorsed]: Title of Court and Cause. Assignment of Errors. Filed Jan. 19, 1904. Geo. W. Sproule, Clerk.

And thereafter, to wit, on the 19th day of January, 1904. a petition for appeal and order allowing appeal was filed and entered herein, as follows, to wit:

In the Circuit Court of the United States, Ninth Circuit, District of Montana.

IN EQUITY.

THE UNITED STATES OF AMERICA, Complainant,
vs.
WILLIAM A. CLARK, Defendant. } No. 157.

Petition for Appeal and Order Allowing Same.

The above-named complainant, conceiving itself aggrieved by the decree made and entered on the seventh day of November, 1903, in the above-entitled cause, wherein and whereby it was ordered, adjudged and decreed that the complainant's bill of complaint be dismissed, does hereby appeal from said order and decree to the United States Circuit Court of Appeals for the Ninth Circuit, for the reason specified in the assignment of errors which is filed herewith, and it prays that this appeal may be allowed, and that a transcript of the record, proceedings and papers upon which said order and decree was made, duly authenticated, may be sent

to the United States Circuit Court of Appeals for the Ninth Circuit.

THE UNITED STATES OF AMERICA,
By PHILANDER C. KNOX,
Attorney General of the United States,
MARSDEN C. BURCH,
United States Attorney.
CARL RASCH,
United States Attorney for the District of Montana.
FRED A. MAYNARD,
Special Assistant United States Attorney for the District of Montana.

Order Allowing Appeal.

And now, to wit, on the 19th day of January, 1904, the appellant, the United States of America having filed with the clerk of the United States Circuit Court for the District of Montana, with its petition for appeal, an assignment of errors, it is ordered that the appeal of the said United States of America, to the United States Circuit Court of Appeals for the Ninth Circuit, be allowed as prayed for.

HIRAM KNOWLES,
United States District Judge, District of Montana.

[Endorsed]: Title of Court and Cause. Order Allowing an Appeal. Filed and entered Jan. 19, 1904. Geo. W. Sproule, Clerk.

And thereafter, to wit, on the 19th day of January, 1904, statement of the Court was filed and entered herein, as follows, to wit:

In the United States Circuit Court, Ninth Circuit, District of Montana.

UNITED STATES OF AMERICA,
Complainant,
vs.
WILLIAM A. CLARK,
Defendant.

Statement of the Court.

That the same may be made a part of the record, I do hereby certify that the original contract made and entered into between R. M. Cobban and Chauncey L. Griswold was formally offered in evidence on the final hearing of the cause, and was considered by me as a part of complainant's evidence in determining what decree should be entered herein.

Dated January 19th, 1904.

HIRAM KNOWLES,
United States District Judge.

[Endorsed]: Title of Court and Cause. Statement of the Court. Filed and entered Jan. 19, 1904. Geo. W. Sproule, Clerk.

And thereafter, to wit, on the 19th day of January, 1904, citation was issued herein, which is as follows:

In the Circuit Court of the United States, Ninth Circuit. District of Montana.

Citation.

THE UNITED STATES OF AMERICA—ss.

The President of the United States, to William A. Clark, Walter M. Bickford and T. J. Walsh, his Solicitors, Greeting:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, not exceeding thirty days from the date hereof, viz: On the 15th day of February, A. D. 1904, pursuant to an appeal filed in the clerk's office of the Circuit Court of the United States, for the District of Montana, wherein the United States of America is appellant, from a decree rendered in the Circuit Court of the United States for the District of Montana, on the 7th day of November, 1903, made in favor of you, the said defendant, William A. Clark, to show cause, if any there be, why the judgment and decree in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties on that behalf.

Given under my hand at the city of Helena, Montana, in the Ninth Circuit, this 19th day of January, in the year of our Lord one thousand nine hundred and four.

HIRAM KNOWLES,
United States District Judge.

Service of the above citation, and receipt of a copy admitted this 22d day of January, 1904.

WALTER M. BICKFORD and
T. J. WALSH,
Solicitors for Defendant.

[Endorsed]: No. 151. United States vs. William A. Clark. Citation. Filed and Entered Jan. 22, 1904. Geo. W. Sproule, Clerk.

And thereafter, to wit, on the 8th day of February, 1904, an order extending time to file transcript was filed herein, as follows, to wit:

In the Circuit Court of the United States, Ninth Circuit, District of Montana,

THE UNITED STATES OF AMERICA,
Complainant and Appellant,
vs.
WILLIAM A. CLARK,
Defendant and Appellee.

Order Extending Time to File Transcript.

Good cause being shown therefor, it is ordered that

the time for filing the transcript on appeal herein, with the clerk of the United States Circuit Court of Appeals, Ninth Circuit, be, and the same is hereby extended until the 15th day of April, 1904. And the appellant shall have until said time within which to file said transcript of the record on appeal in this cause.

Dated this 8th day of February, 1904.

HIRAM KNOWLES,
Judge.

Complainant's Exhibit No. 1.

WARRANTY DEED.

This indenture, made this 27th day of October, A. D. one thousand eight hundred and ninety-nine, between Frank B. Arey and Hannah V. Arey, husband and wife, of Missoula, Montana, parties of the first part; R. M. Cobban, of Missoula, Montana, the party of the second part, witnesseth, that the said parties of the first part for and in consideration of the sum of eight hundred dollars ($800.00), lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents, grant, bargain, sell, convey, warrant and confirm, unto the said party of the second part, and to his heirs and assigns forever, the hereinafter described real estate, situate in the county of Missoula, and State of Montana, to wit:

Lot four (4) and the north half (1/2) of the southwest

quarter (1/4) of section four (4), township (15) north, range fifteen (15) west.

($1.00 I. R. Canceled.)

Together with all and singular the hereinbefore described premises, together with all tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, right of dower and right of homestead property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances thereto belonging.

To have and to hold, all and singular, the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, and to his heirs and assigns forever. And the said parties of the first part, and their heirs, do hereby covenant that they will forever warrant and defend all right, title and interest in and to the said premises, and the quiet and peaceable possession thereof, unto the said party of the second part —— heirs and assigns, against the acts and deeds of the said parties of the first part, and all and every person and persons whomsoever lawfully claiming or to claim the same.

In witness whereof, the said parties of the first party have hereunto set their hands and seals the day and year before written.

FRANK B. AREY. [Seal]
HANNAH V. AREY. [Seal]
_____ [Seal]

Signed, sealed and delivered in presence of:

_____.
_____.

State of Montana, }
County of Missoula. } ss.

On this 27th day of October, eighteen hundred and ninety-nine, before me, Wallace P. Smith, a notary public in and for said County of Missoula, State of Montana, personally appeared Frank B. Arey and Hannah V. Arey, his wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Seal] WALLACE P. SMITH,
Notary Public, in and for Missoula County, State of Montana.

State of Montana, }
County of Missoula. } ss.

I, H. T. Wilkinson, county clerk and recorder in and for the said county of Missoula, State of Montana, hereby certify the annexed and following to be a full, true

and correct copy of a certain deed from Frank B. Arey and Hannah V. Arey, husband and wife, to R. M. Cobban, recorded in book 12 of Deeds, page 415, together with the endorsement thereon, as the same appears of record in this office.

Witness my hand and the seal of the said Missoula County affixed this 20th day of June, A. D. 1901.

[Seal] H. T. WILKINSON,
County Clerk and Recorder.
By ————————,
Deputy.

(Rev. Stamp 10 cts. canceled.)

Complainant's Exhibit No. 1. Henry N. Blake, Examiner. Filed and Entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Recorded at the request of ————, October 30th, 1899, at 54 minutes past 10 A. M., in 12 of Deeds, page 415. H. T. Wilkinson, County Recorder. By Will Cave, Deputy.

Complainant's Exhibit No. 2.

THE UNITED STATES OF AMERICA.

CERTIFICATE NO. 1157.

To All to Whom There Presents Shall Come, Greeting:

Whereas, Frank B. Arey, of Missoula County, Montana, has deposited in the General Land Office of the United States a certificate of the Register of the Land Office at Missoula, Montana, whereby it appears that full payment has been made by the said Frank B. Arey,

according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provisions for the sale of the Public Lands," and the acts supplemental thereto for the lot numbered four and the north half, of the southwest quarter of section four, in township fifteen north, of range fifteen west, of Montana Meridian, in Montana, containing one hundred and twenty-seven acres and thirty-seven hundredths of an acre, according to the Official Plat of the Survey of the said land, returned to the General Land Office by the Surveyor General, which said tract has been purchased by the said Frank B. Arey.

Now, know ye, that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said Frank B. Arey, and to his heirs the said tract above described.

To have and to hold the same, together with all rights, privileges, immunities and appurtenances of whatsoever nature thereunto belonging, unto the said Frank B. Arey, and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of Courts, and also subject to the right of the proprietor of a vein or lode, to extract and remove his ore therefrom, should the same be found to penetrate or intersect the prem-

ises hereby granted, as provided by law, and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof, I, William McKinley, President of the United States of America, have caused these Letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the twenty-eighth day of June, in the year of our Lord one thousand nine hundred, and of the Independence of the United States the one hundred and twenty-fourth.

[General Land Office Seal]

By the President:

WILLIAM McKINLEY.

By M. M. McKEAN,

Secretary.

C. H. BRUSH,

Recorder of the General Land Office.

Recorded, Montana, vol. 36, page 207.

I certify that I received this instrument for record on the 16th day of August, 1900, at 4:22 o'clock P. M., and that it is recorded in vol. N, of Deeds, records of Missoula County, State of Montana, on page 583.

Witness my hand and official seal.

H. T. WILKINSON,

County Recorder.

By Will Cave,

Deputy.

State of Montana, }
County of Missoula, } ss.

I, H. T. Wilkinson, county clerk and recorder in and for the said Missoula County, State of Montana, do hereby certify the foregoing to be a full, true and correct copy of a certain patent from the United States of America, to Frank B. Arey, recorded in book N, of Deeds, page 583, together with the endorsement thereon as the same appears of record in this office.

Witness my hand and the seal of the said Missoula County affixed this 20th day of June, A. D. 1901.

[Seal] H. T. WILKINSON,
County Clerk and Recorder.

(10 ct., I. R. stamp canceled.)

U. S. Patent to ————. Complainant's Exhibit No. 2. Henry N. Blake, Examiner. Filed and Entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit No. 199.

Please call at room 7—222
Broadway to Wm. E. Lefley,
R. M. COBBAN.
Timber Lands,
Missoula, Mont.

[Endorsed]: Complainant's Exhibit No. 199. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit No. 200.

Mr. ALLEN DODD, called, sworn, testifies as follows:

Q. Where do you live?

A. My postoffice address is Bonner.

Q. What is your occupation?

A. I am a laborer.

Q. Have you any family?

A. No, sir, I am a bachelor.

Q. Are you a brother of Harrison Dodd?

A. Yes, sir.

Q. Mr. Dodd, did you under the Timber and Stone Act, make filing and final proof on the S. W. q. of section 30, Tp. 15, rge. 13? A. Yes, sir.

Q. Who was with you?

A. My brother, Winfield Dodd, was with me when I made the filing.

Q. How did you happen to do this, tell me about it?

A. I made the entry in my name, but I made it for R. M. Cobban.

Q. Did you have any agreement about it before making entry? Did you talk to Mr. Griswold about it, before making entry?

A. I had a talk with certain parties and they said there was a chance for certain persons to use their right and sell again.

Q. Who did you have conversation with?

A. As near as I can remember it was with Mr. Griswold.

Q. Did you go and locate this land?

A. Yes, sir.

Q. What did you do then, did you see Mr. Cobban?

A. Yes, sir, after I located the land I came down to see Mr. Cobban myself and brother Winfield came to see Cobban and we seen him in his office.

Q. Anyone else in the office? A. Yes, sir.

Q. Who else was there? A. Mr. J. B. Catlin.

Q. What was the conversation there?

A. We brought the record of land there and Mr. Catlin wrote out the final papers, then Mr. Cobban he furnished us money, to go to Helena.

Q. How much money did he give you at that time for expenses?

A. He *gave* me twenty-nine dollars.

Q. Did he give you a railroad ticket?

A. No, sir, I think he only gave us twenty-nine dollars.

Q. What was the understanding upon which he gave you this $29.00 to go and make this filing?

A. He gave it to us to go to Helena for expenses, then when we proved up sixty days later he was to give us $100.00 apiece and I was to make deed to him.

Q. You were to make a deed transferring your right?

A. Yes, sir.

Q. Did anyone go with you?

A. Yes, my brother and Marion Watson.

Q. Who is he?

A. He is a man that is working for Mr. Cobban?

Q. How is he related to you?

A. One of my brothers married his sister.

Q. Did you pay any money when you made your final proof? A. No, sir.

Q. Did you get final receipts? A. No, sir.

Q. You did not get any papers at all and did not pay any money? A. No, sir.

Q. Who did pay the money? A. I do not know.

Q. Did Marion Watson pay the money?

A. I did not see it paid; he gave us a deed to look over and then took it and I signed the deed.

Q. And did you make the final proof?

A. Yes, sir.

Q. Who was present when you signed the deed?

A. I do not remember if my brother and Watson was there or not; they were all strangers.

Q. You did not know what you were signing?

A. No, sir, I did not, except it was a deed to this land; to come right out with the truth, I did not know what I was signing.

Q. Do you live in the Clearwater?

A. I live about seven miles from Bonner, Montana.

Q. Did anyone else in that neighborhood do this same thing for Cobban?

A. Yes, sir, quite a number of them, on the same condition that I did.

Q. It was the talk in that community?

A. Yes, sir, I guess so.

Q. Did you print any advertisement after you made your final proof?

A. No, sir, I did not. I know nothing about it.

Q. Did you furnish any names of witnesses when you made your filing?

A. I did not, and if any advertisement was published touching that land I know nothing about it and had nothing to do with it.

Q. Did you ever see any advertisement?

A. I seen it before I made my final proof in the "Garnett News," but I did not put it there.

Q. How long was you on this land?

A. About one hour or more, but never after I made an examination of land.

Q. Did you pay the "Garnet News" for publishing that advertisement? A. No, sir.

April 21, 1901.

(Signed) ALLEN DODD.

Allen Dodd was sworn by me before this statement was made, and the erasures and interpolations were made before he signed, and the same was signed by him in my presence.

(Signed) J. W. ZEVELY,
Special Inspector.

[Endorsed]: Complainant's Exhibit 200. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit No. 202.

[Written on Blank of Western Union Telegraph Company.]

Received at Missoula, Mont., 8:40 p m June 23, 1899.

26 UN Wi C II Paid.

Butte Mont 23

C. L. Griswold, at one of the Hotels, Missoula, Mont.

Wire me where to wire you the money for proving up.

R. M. COBBAN.

[Endorsed]: Complainant's Exhibit 202. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit No. 203.

Missoula, 6/24, 1899.

Received of Stephen Tepper Eight and no/100 Dollars for publishing Final Proof notice.

$8.00 MISSOULIAN

E. H. B.

[Endorsed]: Complts. Exhibit 203. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit No. 313.

L. A. Wells, in Account with the Western Montana National Bank, Missoula, Montana.

Dr.

Date.		Amount.
1900.		
Jan. 8.	Check	500
10.	Check	100
10.	Check	67 50
31.	Balance	82 50
	3 Vouchers Returned	750
Feby. 5.	Check	100
8.	Check	55
12.	Check	10
12.	Check	483 68
Mch. 12.	Check	4 50
15.	Check	40
15.	Check	74 05
15.	Balance	105 27
	7 Vouchers Returned	872 50
Mch. 19.	Check	28
Apl. 4.	Check	55
9.	Check	25
25.	Check	150
30.	Check	10
May 16.	Check	12 50
21.	Check	3

	21.	Check	25
	24.	Check	24 20
	31.	Balance	497 57
9 Vouchers Returned			830 27
May	31.	Check	7 40
	31.	R. S. Checks	50
June	1.	Check	10
	2.	Check	54
	5.	Check	6 70
	5.	Check	400
July	9.	Check	12 50
Sept.	5.	Check	5
	6.	Check	30 87
	8.	Check	20
		Ford	546 97

Date.			Cr. Amount.
1900.			
Jany.	2.	Deposit	750
		Duplicate.	
			750
Feby.	1.	Balance	82 50
	3.	Deposit	750
	10.	Deposit, Pierce	40
		Duplicate.	
			872 50

Mch.	15.	Balance	105 27
	16.	Deposit	175
Apl.	30.	Deposit B. B. M. Co.	300
May	21.	Deposit L. 17	50
	29.	Deposit	200
		Duplicate.	
			830 27
May	31.	Balance	497 57
Aug.	30.	Deposit L. 27	647 23
		Ford	1144 80

L. A. Wells, in Account with the Western Montana National Bank, Missoula, Montana.

Dr.

Date.			Amount.
1900.		Ford	546 97
Sept.	18.	Check	50
	22.	Check	25
	24.	Check	10
	28.	Check	172 75
Oct.	5.	Check	25
	11.	Balance	315 08
15 Vouchers Returned			1144 80

Oct.	12.	Check	40
	26.	Check	43 55
	26.	Check	35
Nov.	7.	Check	10
	15.	LI4	186 53
5 Vouchers Returned			315 08

Duplicate.

Date.			Cr. Amount.
1900.		Ford	1144 80
		Duplicate.	
			1144 80
Oct.	12.	Balance	315 08
		Duplicate.	
			315 08

[Endorsed]: Complainant's Exhibit 313. H. N. Blake, Examiner. Filed and Entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit No. 344.

R. M. Cobban. J. B. Catlin. Saml. Dinsmore.

Cobban & Dinsmore,

Missoula, Montana.

REAL ESTATE AND LOANS.

Makes a Specialty of

ORCHARD AND GARDEN LANDS

In the Missoula and Bitterroot Valleys.

Correspondence

Solicited. Represented by John B. Catlin.

(Printed on back.)

DON'T

BUY

Until you see our list.

No trouble to show property. We

negotiate loans. We buy, sell and exchange.

ANACONDA, BUTTE AND MISSOULA

REAL ESTATE.

If you want to make a change,

write or call on us.

COBBAN & DINSMORE, Missoula, Montana.

[Endorsed]: Complainant's Exhibit 344. H. N. Blake, Examiner. Filed and Entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit No. 345.

In the District Court of the Fourth Judicial District State of Montana, County of Missoula.

C. L. GRISWOLD,
Plaintiff,
vs.
R. M. COBBAN,
Defendant.

Transcript of Evidence of R. M. Cobban.

Before S. G. Murray, as Referee.

The hearing of this cause commenced at 10:00 A. M. May 7th, 1901.

R. M. COBBAN, called, sworn, testifies as follows:

Q. Are you the defendant in this suit?

A. Yes, sir.

Q. You know the plaintiff, of course?

A. Yes, sir.

Q. Mr. Cobban, state to the Court—you may take the plaintiff's statement, you may take that list of lands or land owners, go over them one by one, and tell any connection that Griswold had with any of them, and any obligation and liability you ever incurred with reference to any of them.

A. The first one on the list is G. Brunner; this claim I never purchased at all.

Q. I want to ask you about going into that contract introduced here. You are familiar with it; I will ask you if there was any modification between yourself and

Griswold subsequent to the examination of that contract, and state to the Court the circumstances under which it was made, as regards a fixed minimum.

A. There was to be no claim; I was under no obligation to take any claim that had less than 600,000 feet, as it was not profitable to take claims under that amount.

Q. Under this contract, what was it understood Mr. Griswold was to do in perfecting the obligation under that contract?

A. He was to point out these lands, show it to us, to be of other assistance, furnish a list of the timber, anything his commission involved, anything affecting a claim.

Q. Was it understood he was to make personal inspection, and furnish you an estimate of the quantity of timber on these several tracts in order that you might determine whether you would buy it?

A. It was necessary for him to do so; I could not act intelligently without him doing so.

Q. It is a fact, I take it, from other circumstances, that Griswold did employ some other persons to make some estimates and examination of lands under the contract? A. Yes, sir.

Q. State whether or not Mr. Jamerson was one of these persons?

A. That assisted Mr. Griswold; yes, sir.

Q. For this assistance of Mr. Griswold you may state whether or not you paid him on the order of Griswold?

A. I did.

Q. Is it not a fact Jamerson made some selections independent of arrangement with Griswold?

A. He did.

Q. Did you pay for them yourself? A. I did.

Q. Griswold had no connection whatever with these several claims Jamerson located at your instance and request?

A. He had nothing to do with them so far as I am concerned.

Q. You were on the Brunner claim, what about that?

A. This was reported to me by Griswold; it was a claim not purchased as it was considered the purchase price was in excess of the value and it never came into my possession; under our agreement he was not to have pay unless the timber did come into my possession. The next is that of C. Moss; this was a claim that Mr. Griswold made appointment to show Charles Dorman and Moss some claims, giving me description of lands, I think it was on section six, he told me at least there was some claims on a certain section and he would meet myself and these parties on the Clearwater on such a day and made an appointment with us to show us these claims, we went there and Mr. Griswold did not show up; I went with Mr. Dorman on the ground; having spent a day there, I finally selected a claim; I allowed Griswold the Dorman claim; he had nothing to do with it except to tell us there was one there. Mr. Moss was not able to go onto that ground at all, after considerable hunting around another claim was found

for him; we knew nothing about whether it would stand up to the estimate; Mr. Griswold did not have anything to do with it, never had anything to do with it in the world; when I settled with him for the Dorman claim that was fully discussed at the time and he made no claim to it. The next four claims D. L. Chatten, J. Saleen, J. S. Deering and C. C. Snyder were in the same vicinity, in fact they were four of them on section 10 and Snyder on section two adjoining each other; Mr. Griswold was requested by me, in fact he acted partly on his own judgment in going into certain townships to show a claim; Mr. Griswold went into this district and reported no timber worth taking there, that the timber was not worth taking; later on I was informed by other parties it was worth taking, and Mr. Sparks who was working for me went to see in that vicinity; I requested him to look this ground over; he did so, and on Mr. Sparks estimates and his opinion I told people where they could get these claims. Mr. Griswold did not have anything to do with these, in settling our claims Mr. Griswold did not claim these. The claims of M. P. Dunham and F. B. Arey were in the same vicinity in the same township a little further west, Mr. Griswold claimed it was not valuable, Griswold had nothing to do with it and in our settlement they were cut out. The next claim of D. McGillis was in the same shape; that claim, I think, was shown by Mr. Stephen Tepper. Mr. Griswold never gave me anything of these claims, no estimate or report in any way other than as I say that they were all of no value, no statement of

the quantity of timber or that there was such claims there of any value.

Q. Many of them below 600,000 value?

A. Yes, sir, there is a number of them in this list that is below the estimate I wanted. The next two claims, E. M. Hardy and J. H. Hardy, these were claims that I was particularly anxious should be good claims. I spoke to Jamerson, he was in my employ, and asked him if he was in the employ of—

(Counsel for plaintiff objects to any conversation with the Jamerson. Objection overruled.)

—claimed at that time that I was infringing on Griswold and as I did not want to step in Griswold's way in any way Mr. Jamerson told me it would not, that he had no contract with Griswold and that Griswold told him he would pay him a certain amount for claims. I told Jamerson I would pay so much for each of these claims if he found claims for those parties. He found them and I paid Jamerson for them. In our settlements Mr. Griswold did not claim them and they were cut off. The claim of E. M. Kilburn is a claim of Mrs. Effie Kilburn, Mr. Kilburn was employed at various times, part of the time by Griswold and part of the time by myself. There was an understanding between Griswold and myself that we would not infringe on each other at all. This claim was taken up by Mrs. Kilburn. I did not know Griswold had anything to do with it in the world. Mr. Kilburn assured me that Griswold had nothing to do with it at all.

By the COURT.—This last sentence may be stricken out.

Q. State whether or not Griswold ever furnished you any information with reference to that Kilburn claim?

A. He never furnished me an estimate of it, he may have spoken about it some time but he did not claim it at the time of settlement.

Q. It was not included in any of the credits you gave him, he knew that fact and it was agreed to, was it? A. Yes, sir.

Q. State whether or not it was simply left out?

A. It was simply, Mr. Griswold was furnished a statement, Mr. Griswold had a statement of all claims taken by him from time to time. He fully agreed with certain ones and others was left out.

Q. What did he say from time to time when that would occur?

A. He never made any claim for them at all, further I wish to say that there was an agreement between Mr. Griswold and myself in this, when he went to work under this contract I was to take the lower country myself as it was nearer to Missoula. Pretty close up to the Clearwater, the Gold Creek country and the Camas country was my territory, I was not occupying much of any territory whatever.

Q. Was there any understanding that he was to have any exclusive territory? A. No, sir.

Q. He was excluded from certain territory?

A. Yes, sir; the Kilburn claim was practically in that territory from which he was excluded. The next

claim was a claim of Combie, 855,000 feet. This was a claim that the purchase price was so high I could not afford to buy that and pay him a commission of 5 cents, however, it was agreed at that time that 25 dollars was to be the amount that Griswold was to get for that in full settlement and acknowledged that, and it was thoroughly stated to him at that time. The next item is the east 1/2 of the N. E. 1/4 of the N. E. 1/4 of 34-14-14; this is a piece of timber taken under scrip, it was not taken on any report of Mr. Griswold in any way, shape or manner, and I did not know until this bill was presented that he ever claimed anything for that. Mr. Hambly reported this matter to me.

Q. State to the Court if it was omitted from the statement rendered to Griswold after locating it by scrip?

A. I do not know of any statement of any scrip land rendered to him.

Q. This was not included in any statement you rendered to him?

A. No, sir; the statement I rendered to him that all claims taken by individuals and scrip lands was omitted from that. The claim of M. McDonald was located just over the range from Camas Prairie on the south side of the Blackfoot river.

Q. State whether or not it was in this territory that Griswold was excluded from?

A. There was no regular points in that territory, but I understood it was my territory. It was a claim that was not reported to me by Griswold. It is possible he

might have mentioned that claim to me at some time but it was never brought to my attention by Griswold; Pat Hayes was the man that came to me for Mr. McDonald to sell the claim, we agreed on the price, Mr. Griswold never gave me a report or the quantity of timber or anything of that sort. The claim of A. M. Nichols and C. B. Nichols were in the Gold Creek Country and out of the territory mentioned that Griswold had anything to do with. At that time he had nothing to do with it. In the settlement we made he made no claim whatever to the amount of timber on it. The next claim is J. M. Pears. This claim was by Dinsmore in my absence from the city and against my positive instructions to purchase, there is no title, it is a homestead, never been proved up on and it is not to-day a good title, further no claim has ever been made until this statement was handed me by Griswold claiming anything for it. The next one is the J. B. Selly claim. This is another claim on which the purchase price was so high I could not afford to buy and pay Griswold a full commission, I could not pay him 5 cents per thousand for the timber and it was by a special agreement that he consented to take one-half of the regular commission. The next three claims, W. J. Eddy, L. J. Gilman and R. M. Jamieson; these were three claims that run below the estimate of 600,000 feet to the claim and were left out in our settlement by mutual agreement, Mr. Griswold stating at the time he did not want pay for anything that did not come up to the amount that was agreed upon. The next two claims are James Conners

and George Milan. This was for land taken under scrip. These were two friends of Griswold's that he brought into the office; they had a squatter's right on there. Mr. Griswold wanted me to purchase the ground and buy his friends out. The price was too high to justify me paying five cents commission on that. There was some dealing back and forth and after a little time Griswold said that if I would take these claims there would be no commission on it whatever and he would let the matter go, under that agreement these two claims were taken. The next four claims, Norman Newell, W. Miller, S. C. F. Cobban and O. C. Clark, were located by Mr. Jamieson at my request, and I paid him for them with the understanding as in former cases that I was not in any way infringing on Mr. Griswold; later on Mr. Griswold and I had a settlement. These were cut out from his claims and he never claimed pay for them until this suit was brought. The next item is two 40's in 24-16-16, I would like to leave that out and report on that after recess, after I look at my map. The four 40's in 22-13-17, unsurveyed land was in a territory that Mr. Griswold had nothing to do with whatever, further I employed one Harrison Dodd to look up that timber for me and paid him for it. Mr. Griswold never made any report whatever to me of any timber selections in there and had nothing whatever to do with it. The next item 15 40's in 14-13-17, I went personally on that ground with Mr. Harrison Dodd and looked over that ground before selecting it, Mr. Griswold never had anything to do with it in any shape or manner, I em-

ployed Harrison Dodd to show me these lines and paid in full for it, it was in a territory that Griswold had nothing to do with in the first place and never reported anything in any way shape or manner to me. Six 40's in 12-13-17, there was only five 40's selected in the first place, it is this way, these were reported to me by Otto Peterson to whom I paid $25.00 for reporting the timber as Mr. Griswold never made any report to me in any shape or manner, 9-40's in 32-14-17, there was never but eight selected of that and he puts in a bill for nine. These were also located by Harrison Dodd at my request and I paid for in full. Mr. Griswold never reported the same to me and it was outside of his territory, there was no report ever made to me of there being good timber or the quantity of the timber or any thing of the kind.

Q. Was any claim of credit made by Griswold in the settlement?

A. Not until the last settlement, Mr. Griswold, said he thought he should have something on the Harrison Dodd claim, I asked him what right he had in that and it was then settled and was conceded that he had no claim and made full settlement at that time. These are the only items in there. I want to say further here-that by special arrangement later on I sent Griswold into the Gold Creek territory, in my territory, and all of these items he has reported there he has received credit in full on my books, there were quite a good many claims he had located when I sent him in to locate that

was in my territory and I sent him in there to make an examination.

Q. That was by special arrangement?

A. Yes, sir, I want to make a statement regarding that McCombie claim, I said that the east half of the northeast quarter and the northeast quarter of 34-14-14 was scrip land, that was not the case, I was mistaken in the land, that was land taken under a timber and stone act, I don't remember the party but it only run 395,000 feet for the claim, it was way below the amount specified with Griswold and the amount that he should receive pay for, and it was cut out and not allowed and he accepted it in our settlement. This matter of two-40's in 24-16-16, this was 80 acres of land taken under scrip act, they were shown me by Scotty, Mr. Sparks and I was in there together making estimates of timber and I came down and placed scrip on it. Mr. Griswold did not have anything to do with in the world and not entitled to it in any way.

Q. I will ask you, Mr. Cobban, if Mr. Griswold was in from time to time and furnished a statement of the land for which he was given credit under the contract?

A. Every time I made a sale of timber to W. A. Clark, and I made a number of them, I would make a statement to Griswold and he would come in the office and we would check up what lands Griswold was entitled to pay for at that time and we would figure up the number of feet and entry would be made on the books, there were several such settlements. Mr. Griswold was furnished a statement at every such settlement.

Q. Look at statement, marked statement "A," and tell whether or not that was furnished to Mr. Griswold?

A. Yes, sir, it was.

Q. Tell the Court whether or not if that was furnished there was an adjustment of credits between you and Griswold? A. Yes, sir, in full.

Q. Turning to statement "B" tell the Court whether or not that was furnished?

A. Yes, sir. It was a copy of the statement furnished at that time.

Q. Was that furnished at the same time that statement "A" was furnished?

A. No, sir, it was furnished at a later time.

Q. You may read the notation at the bottom and explain that notation to the Court?

A. No charges made for claim, claims of R. M. Jamerson by C. L. Griswold, claims being less timber than guaranteed.

Q. Had you dismissed that proposition with Griswold before that statement was made?

A. Yes, sir.

Q. Tell the Court whether that was put on the statement pursuant to statement referred to?

A. Yes, sir.

Q. After that was delivered to Griswold did he have any notation on it?

A. Yes, sir, in full, when Griswold said he did not want pay for anything not coming up to the standard.

Q. Subsequent to that statement was there a state-

ment marked statement "C" referred to in this evidence as Exhibit "E"? A. It was after that.

Q. Read to the Court any notation in writing on that statement?

A. There was one claim in that statement admitted additional afterward given credit for below this. C. L. Griswold signed his name and put the date on it that this was rendered to him.

Q. State whether or not it is a fact that the northwest quarter of 2-14-11 was credited to Griswold in addition because it was not finally determined whether it would come in the list of agreement to which he was entitled to credit for?

A. A party had written to me that he was going to contest it.

Q. State whether or not if it was a credit that Griswold was entitled to he was to have it?

A. It was agreed that if I did not get the land he was not to have credit for it.

Q. What is that writing on there, C. L. Griswold, January 25th, 1900, under what circumstances was that endorsement made?

A. I do not remember whether he signed in my presence or not, I stated it was O. K.'d, I believe the bill was settled, I went over it once with Mr. Griswold personally every time settlement was made, I went over it personally with him.

Q. State if at the time of your going over that statement referred to did you then settle with Griswold in full at that time?

A. Yes, sir, the items were all entered in the books in accordance with our agreement.

Q. You agreed on the amount he was entitled to?

A. Yes, sir.

Q. Was he subsequently paid for them?

A. Yes, sir, in full.

Q. I will ask you if it is a fact that at that time that statement was rendered Griswold said to you he wanted time to consider it?

A. No, sir, he did not, there was no objection made to it.

Q. State whether or not it was after that you did say in your office then you asked him to sign his name there, asked him to sign his name there simply for identification?

A. It was never necessary, it was checked up at that time and agreed upon.

Q. State whether or not you and Griswold went together to the First National Bank and you paid over at Mr. Griswold's request on a note due from him to the bank the amount of balance then ascertained to be due on this settlement?

A. I did, we figured up the amount due in my office, the amount due him and I took a check and went to the First National Bank and paid this, there was a settled balance of $36.00 on this note unpaid.

Q. What time was that, Mr. Cobban, if you can remember?

A. I can't remember, I can't without referring to the statement.

Q. State whether it was subseqnent to the 25th day of January?

A. It was the latter part of the year, I don't remember exactly.

Q. What year was it?

A. I think it was along last fall in 1900; there has been no transaction since it was the final transaction.

Q. Did you ever have a conversation with Griswold about Jacquays, this twenty dollar item?

A. No, sir, I never did, it was never disputed.

Q. You paid that amount?

A. Yes, sir, I paid that amount.

Q. State to the Court in what way you came to pay it?

A. I had an account with Jacquays previous to that time Mr. Griswold had got money there, there being at one time an order on me for $100.00, often times people work for me would run short of money and would ask these people and I paid it when the bill was presented.

Q. Look at that check marked Exhibit "I"; that was a check given to Griswold, was it? A. Yes, sir.

Q. Mr. Griswold in his testimony in chief said when he got that money he paid to you $10.00 of it; is that true? A. I have no recollection of it.

Q. Do you know whether it is a fact?

A. I do not think it is.

Q. That was given to Griswold for what purpose?

A. For the purpose of paying his expenses to Oregon to look up some timber land that we were interested in to look up and see whether there could be any deal in

it. Mr. Griswold was to put in his time as against the expense I was to furnish.

Q. You do not remember of him returning any part of it?

A. No, sir, I do not remember of him returning any part of it.

Q. Have you got some other receipts there for payment made to Griswold under this contract not credited on his account against you?

A. I think I have.

Q. Can you turn to them? A. Yes, sir.

Q. You may take that paper and state in connection with that whether you allowed him for eight days' service on the Blackfoot and paid it?

A. I did, this was for work outside of his contract entirely, I employed him at times to go and post notices on scrip land and make a special report to me, this was paid him in full.

Q. Read the items?

A. Eight days on the Blackfoot, $40.00; two days in the Bitterroot, $10.00; expenses at the Blackfoot, $23.50; total, $73.50, credit by cash, $40.00; balance, $33.50, received payment on the above August 23d, 1900.

(Exhibit "O," introduced in evidence by counsel for defendant. Counsel for plaintiff concedes that he is not entitled and does not claim in this action for the full items contained in his bill, to wit: $40.00, eight days' labor; $10.00, two days' labor; $23.50, for expenses; $250.00, Orchard Homes refund; $45.00, in item of October 16th; $51.60, Gillis and Clotier; $37.85, Gillis and

Clotier; $5.00, Watson and Catlin; $20.00, Bourquin; $75.00, guarantee notes; $82.50, guarantee notes; $20.00, Jacquays; $150.00, expenses on Blackfoot; $91.25, expenses to Oregon.)

Q. You had a memorandum. I wish you would give that again and explain in relation therewith the methods from which the business with Griswold was transacted and credit given.

A. Griswold was out of town a good deal of the time, probably not in town over two weeks in a month; every time he came in from any of his trips he was asked to make a statement of any expenses or any charges against us at that time and he would enter in a slip showing the credits he was entitled to.

Q. I will ask you whether that statement of memorandum showing a credit of $70.30 was a credit on the statement you furnished to Griswold and upon which from time to time you have settled with him?

A. It was.

(Counsel for the plaintiff at this juncture now asks that the books of the original entry upon which the accounts submitted by the defendant to the plaintiff Griswold, and which has been introduced in evidence by the plaintiff Griswold, be brought into court for the inspection of the counsel for the reason that said books is the best evidence showing the various transactions between the parties for the further reason that the statement introduced in evidence is based upon said books as testified to by the defendant himself.)

(Counsel for defendant object to this—no ground given. Objection sustained. Exception taken.)

Q. I will ask you, we spoke this morning about a note, did you refreshing your memory about the history of that transaction and if you did you may relate it to the Court?

A. Yes, sir, the $483.95 was the amount of the note that was given on the 28th day of May, 1900, by Mr. Griswold to the First National Bank which I was endorser, it was given as part payment on a previous note, he had taken up this note and there was a balance on that note, there was payments made at various times on that note December 17th, 1900, there was a balance remaining of about, I think, $203.95, and interest. Mr. Griswold and I had a settlement at that time and agreed that the amount due Griswold was $186.80, and paid that, we went to the bank together and paid this amount, I paid this amount, $186.80, on that note, leaving a balance of $36.00. Mr. Griswold then gave his note for $36.00 and I endorsed and took up the note for $483.95.

Cross-examination.

Q. Mr. Cobban, look at that contract, Exhibit "A," and say whether you signed that contract?

A. Yes, sir.

Q. You signed it? A. Yes, sir.

Q. Under that contract did Mr. Griswold go to work for you about May, 1899?

A. He went to work under the conditions of the contract.

Q. You say that subsequent to the execution of this contract there was a modification of it?

A. To a certain extent, yes, sir.

Q. When was that?

A. I am not certain at the time the contract was drawn or shortly afterward.

Q. Where was it made here in Missoula?

A. It was a proposition spoken of in regard to timber, on claims, it was spoken of repeatedly at various times.

Q. Anyone present when you made it?

A. I don't know that there was, I don't know but there might have been.

Q. The modification of the contract was that you would not accept any claims that did not contain within 600,000?

A. That I was not bound to do it.

Q. It was optionary with you, then?

A. Yes, sir.

Q. Did you ever accept any for less than 600,000?

A. I did.

Q. Give him credit for it upon your books?

A. I did.

Q. The claims that you referred to in your examination in chief as to why you did not accept them it was for the reason they did not come up to the required number? A. It was the only reason.

Q. Did you ever tell Griswold that was the reason?

A. We agreed upon it there was not any particular statement, we agreed right then and there.

Q. Under the terms of the agreement and employment he frequently sent in his returns to you, did he not?

A. He was not supposed to send in any but he did do it.

Q. As a matter of fact you did accept some claims that were less than 600,000? A. Yes, sir.

Q. In the course of his employment in sending in these various claims you did not notify him not to do it? A. Yes, sir, repeatedly.

Q. He still persisted in sending them in?

A. Yes, sir, at times.

Q. Mr. Cobban, you say amongst other reasons why you refused to accept some of the claims mentioned in this additional memorandum of Mr. Griswold was because under the contract it was necessary for a personal inspection by Griswold?

A. I don't know that I have made that statement.

Q. You did not? A. I don't know that I did.

Q. Is that one of the reasons why you did not accept some of the claims because he did not personally inspect the claims? A. No, sir.

Q. That was not a matter that entered into it, the matter of your refusal? A. No, sir.

Q. During the term of employment of Griswold from the 22d day of May, 1899, I believe the date of the contract, did you not know that Griswold was employing men to assist him in the matter of finding locating of timber up there? A. At times, yes, sir.

Q. Did you make objection to that?

A. No, sir, not to a certain extent.

Q. Mr. Cobban, is it not a fact that during the terms of employment of Griswold under this contract locating various claims he had some three or four men employed giving them orders upon you for their services rendered in and about the locations of claims and you would accept them and pay for them?

A. Yes, sir, it is.

Q. Is it not a fact Mr. Jamerson was in Mr. Griswold's employ?

A. Part of the time, yes, sir.

Q. Was he not all the time?

A. Not that I know of.

Q. You paid Mr. Jamerson for some claims yourself, did you not? A. I did.

Q. On account of his locations?

A. On account of his services in finding the claims.

Q. Did you ever pay him while he was in the employ of Griswold?

A. I paid him money for Mr. Griswold.

Q. Did you ever pay him for finding any claims while he was in the employ of Griswold? A. No, sir.

Q. Did he tell you when he quit the service of Griswold?

A. He told me at the time I paid him he was not working for Griswold.

Q. Is it not a fact that Griswold reported these claims to you?

A. It is an absolute falsehood; he never reported

these six claims that I testified to to-day, Jamerson reported them to me.

Q. You know Kilburn, don't you? A. I do.

Q. He was in your employ for a time?

A. Yes, sir.

Q. You don't know whether he was in Griswold's employ?

A. At times he was in Griswold's employ, at times he was in my employ.

Q. Look at this paper and report of McDonald claim, did you know when that claim was sent in?

A. We had nothing to do with that claim in any way, shape or manner in locating it.

Q. You had nothing to do with it?

A. No, sir.

Q. Who did? A. I don't know.

Q. You have purchased that claim, did you not?

A. Yes, sir.

Q. Did you pay Griswold for locating it?

A. No, sir.

Q. Did you pay anybody?

A. No, sir, I did not; I paid the party who sold me the claim.

Q. Where is the claim that Mr. Kilburn located? Who paid him for it?

A. I don't know that I testified—

Q. Did Kilburn locate any claims that you paid for?

A. I don't think he did, no sir; he did other service for me that I paid him for; however, he worked for me a good deal of the time during this contract.

Q. The C. Moss claim, you say you had arrangement with Griswold to meet you in the Clearwater for what purpose? A. To show us the ground.

Q. When did you make that arrangement?

A. Two or three days previous.

Q. Then he did speak to you about the C. Moss claim?

A. He was to show us the ground on section 6. The ground that Moss took up was not located by Griswold in any way, shape or manner.

Q. Is the Dorman claim on section 6?

A. Yes, sir.

Q. Mr. Cobban, this C. Moss claim was in the country where Griswold was locating claims and he asked you to be there for the purpose of looking at the claims?

A. Yes, sir, I was on hand and he did not come.

Q. That is the reason you refuse to pay him?

A. He never showed us the lines and nothing else.

Q. Did you send any one to get the lines and boundaries?

A. No, sir, it was not reported to me.

Q. Did Mr. Griswold show you the boundary lines adjoining that of Moss claim in the same section?

A. Yes, sir, I think so.

Q. At that time did Griswold tell you he had been over the Moss claim and had pointed it out?

A. No, sir.

Q. Did Griswold ever talk to you about the Moss claim? A. He never did.

Q. He did show you the one adjoining it?

A. Yes, sir.

Q. What claim was that?

A. I think it was the one his brother had D. L. Chatten in 10-15-15.

Q. Did you buy that? A. I did.

Q. Who found this claim?

A. I think it was first reported to me by Mr. Sparks that there was considerable timber in there.

Q. That is the same territory that Griswold was working in?

A. Yes, sir, he had been in there and had already reported the timber was not good, that it was hard to reach.

Q. He had been over the territory and talked to you about it and made no report as to the Chattin claim?

A. No, sir, not as to that being a good claim.

Q. Did you ever pay anybody for finding it?

A. No, sir.

Q. You did not find it yourself?

A. I think I was over the ground myself.

Q. How many claims did you take in section 10?

A. I think there was three claims located in section 10 that afterward came to me.

Q. What was the names of them?

A. Seleen, Chattin, and I have forgotten the other parties, they are in that list there—Deering is the man's name, I think.

Q. The Deering claim; who located that or found it?

A. Mr. Griswold did not; I don't know, I think

Sparks reported on that section, the whole of that section.

Q. What time was it when Sparks reported on that section?

A. Some time before they were taken up.

Q. What time of the year?

A. I could not tell you.

Q. Who gave you the boundaries for the Deering claim?

A. I went on there myself, I went around that myself.

Q. Had no information from Griswold whatever?

A. Not as to their value; I had advice that they were not good.

Q. Afterward you investigated it yourself and found it was O. K.? A. Yes, sir.

Q. The C. C. Snyder—the same state of affairs existed there? A. Yes, sir.

Q. Is that not Griswold's territory in which he was working?

Q. If he had reported good claims he would have been entitled to them?

Q. Who gave you the boundaries for them?

A. I went around them myself.

Q. Mr. N. P. Donovon in section 4?

A. Mr. Donovon took that claim himself, he found his own claim.

Q. Griswold had nothing to do with it?

A. No, sir.

Q. How do you know?

A. Mr. Donovon took it himself; Griswold did not report to me; if Griswold had been entitled to it it was his duty to report it to me.

Q. Mr. Cobban, during Griswold's employment, did he report separately every claim or report it by sections, townships, ranges, etc.—how did he do it?

A. He generally reported every claim by itself. Oftentimes the ground would not allow taking up in sections; you would go into a section and find 8 or 10 good 40's in the whole section and the rest would not be of value; he would report the timber land that was of value.

Q. You say now as to the Dunham claim that Griswold did not report that to you at all?

A. No, sir, not as being of any value.

Q. Did he report it?

A. He gave a report as to north part of that township which was adverse to anything in there as being of any value.

Q. The Arey claim?

A. That is the same as the Dunham. Arey found it himself. I think Dunham and Arey got them together.

Q. Griswold was in that country, was he not?

A. Yes, sir, he had nothing to do with them however.

Q. The Gillis claim?

A. It was never reported by Griswold.

Q. That is not in the excluded territory, is it?

A. No, sir.

Q. E. M. Hardy in 32-15-15?

A. He never had anything to do with and never reported to me anything in any way, shape or manner

Q. Did you find it?

A. I employed a man to find it, Mr. Jamerson.

Q. Was that the time he was in the employ of Griswold? A. No, sir.

Q. What time did you get him to look up that claim?

A. I can't tell you from memory.

Q. Can you give me remembrance?

A. Mr. Jamerson hunted the balance up himself and gave them to me.

Q. You don't remember the time of year that was done? A. No, sir.

Q. By referring to your book can you ascertain the time?

A. I suppose I could tell from that.

Q. That is not in the excluded territory, is it?

A. No, sir.

Q. The J. H. Hardy claim?

A. That is the same way and the same condition.

Q. The E. M. Kilburn in 2-13-15-? Who found that claim? A. I could not tell.

Q. How did you get it?

A. Mrs. Kilburn sold it to me.

Q. Did Griswold ever say anything about it?

A. He never claimed any pay for it, he may have mentioned it sometime to me that Mrs. Kilburn had the claim but nothing further.

Q. What kind of a claim was that?

A. That was a timber and stone claim.

Q. The mere fact he did not claim it that is the basis upon that he is not entitled to pay for it?

A. There must be some evidence that he did find the claim under the contract, he was to report to me the timber and what it was, that is what he was employed for.

Q. Is that in the excluded territory?

A. I consider that in the excluded territory, they were so very close to the line between that on the south side of the Blackfoot river to the north of Camas Prairie.

Q. You say that he was to do a great many things in and about this timber. What does this mean in this contract, first party on receipt of title is to pay said second party 5 cts. per thousand on all timber?

A. It means I would pay him anything that came from him but I would have to have some knowledge of it. I don't know how it would come to me unless he gave me something in regard to it.

Q. The Combie claim, did you find that?

A. No, sir.

Q. Who did?

A. Mr. Griswold was instrumental in getting that claim.

Q. You paid him $25 for that?

A. Yes, sir; I did by special agreement with Griswold.

Q. Did he accept it in full?

A. Yes, sir; he accepted it and it was settlement in full right then and there. I do not remember whether I got a receipt or not.

Q. That was on the basis of $2.50?

A. I could not pay 5 cents a thousand for it and Mr Griswold was willing to give his commission in it, so I got authority to take the claim, that is the way it was done.

Q. Where was this arrangement made between you?

A. I think in my office.

Q. Are you certain? A. No, sir; I am not.

Q. Was anyone present?

A. I don't know of anyone being present.

Q. How about 34-14-14; who found that?

A. Mr. Griswold.

Q. Did you pay him for it? A. No, sir.

Q. Why?

A. Because it was too small an amount; he excluded that himself. Q. When?

Q. When? A. When we made our settlement.

Q. Did you talk about it? A. Yes, sir.

Q. Who was present then?

A. I am not certain whether Pound was present or not.

Q. For the reason that it was not 600,000.

A. Yes, sir.

Q. You did pay him for others that was not 600,000?

A. Yes, sir.

Q. At the same time?

A. I don't know whether it was at the same time or not.

Q. The east half of the northeast, was you not on that land with Griswold?

A. No, sir; I don't think Griswold was ever there with me.

Q. Are you certain of that?

A. Yes, sir; I was on that, that was the one I referred to before.

Q. Do you know the character of the land?

A. Yes, sir.

Q. You afterwards purchased it? A. I did.

Q. You received the benefit of it? A. I did.

Q. And Mr. Griswold is not entitled to pay for it?

A. He agreed he should not accept anything for that.

Q. The M. McDonald claim; that is the one Pat Hayes sold? A. Yes, sir.

Q. Who found that? A. I don't know.

Q. Did Griswold ever talk to you about that claim?

A. No, sir.

Q. Never even mentioned it?

A. He might have mentioned it; he didn't bring the parties to me and was not instrumental in making the sale.

Q. The A. Mickles claim, who found that?

A. I suppose Mickles himself; I don't know.

Q. Do you know whether Griswold had anything to do with it? A. I don't know.

Q. The C. B. Mickels claim?

A. They are the same. These were agreed on that he had nothing to do with when we made settlement.

A. Yes, sir.

Q. Are those claims in excluded territory?

A. Yes, sir.

Q. Now, the McDonald claim; is that in excluded territory?

A. I am not sure about that; there is no well-defined boundaries there but that was not the reason that was excluded from our settlement.

Q. Why was it?

A. He had nothing to do with it whatever; I bought it from another party.

Q. The Pears homestead?

A. That is not a good title and was never purchased with my consent in my absence and in my name, it was purchased by a party not authorized to do so.

Q. You have the timber?

A. I don't know whether I have or not. I got a deed for it.

Q. Did Mr. Griswold ever have anything to do with it?

A. I don't know of him ever having anything to do with it.

Q. This Pears claim—where does that timber lie with reference to the road running between Well's place and the postoffice?

A. I am not well enough acquainted with that country to know just where that does lie.

Q. The J. B. Selly, timber and stone claim, did Mr. Griswold find that? A. No, sir; he did not.

Q. Who did? A. Mr. Seely found it himself.

Q. Did Griswold have anything to do with that?

A. Mr. Griswold told me about Seely having a claim.

Mr. Griswold came into town; he was a friend of Pears. I said I could not afford to pay that price and pay the commission and he consented that if I would buy the timber he would cut his commission in two.

Q. Did he find it? A. Yes, sir.

Q. Did you pay him two and one-half cents per thousand?

A. Yes, sir; I paid him a good many claims he did not have anything tot do with rather than have any question.

Q. Do you know whether he talked with parties about these claims?

A. I don't know, he may have talked with them.

Q. These people you talked with that he talked with you did not consider you owed him anything for and you gave to him just as a gratuity?

A. I don't think in a good many cases he had any commission but it was very hard to draw the line.

Q. In the Seely and Combie claims, didn't Griswold come into your office and talk about them and at that time you told him you would not pay him anything for them?

A. I did not, no, sir.

Q. Who found the W. J. Eddy claim?

A. Mr. Jamieson.

Q. Was he in your employ at that time?

A. No, sir; I think he was working for Griswold at that time.

Q. Do you know whether Griswold located or found that claim?

A. I think Griswold was given the benefit of it; it was agreed between us that these three claims did not have enough timber on and he was not to be paid for them. He did that of his own accord. He said he could not insist on a payment.

Q. He has charged you with it?

A. He has now.

Q. You have got the Eddy claim and good timber on it? A. Yes, sir.

Q. Who found the J. L. Gillman claim?

A. That is the same condition as the Eddy claim.

Q. You bought that one did you?

A. Yes, sir.

Q. Because it did not come up to the 600,000 you would not pay for it?

A. It was agreed between us that I should not.

Q. The R. M. Jamieson claim?

A. This is the same condition exactly as the others.

A. The James Conners; what about that claim?

A. That was unsurveyed land. I have forgotten what they wanted for that but I think it was $100 apiece for their rights. To buy them out and pay the price that script cost made the claims too expensive to pay five cents per thousand for them and I refused to buy it. Mr. Griswold claimed these were friends of his and he would not charge me anything for them.

Q. You did take them? A. Yes, sir.

Q. Mr. Griswold found them?

A. He brought them into my office.

Q. Did you pay Connors and Milan $100?

A. I paid them what was agreed upon.

Q. If you paid them $100 that, was not a very unusual price, was it? A. It was exceedingly.

Q. Did you get it out?

A. These claims did not run high; the estimates are not high.

Q. Do you know how much you paid Connors and Milan?

A. I could find out if it was necessary.

(Counsel for plaintiff asks to have the books brought in to prove that the usual price paid for these claims was the price paid for all other claims.)

Explanation of witness: One reason why Mr. Griswold was not really entitled to as much consideration in these claims; he had been requested to go into that same township and look up these claims and he had reported that there was very little valuable timber in there and afterwards bringing these people in who had gone on as squatters.

Q. Then you are not satisfied about Mr. Griswold?

A. Sometimes I was and sometimes I was not.

Q. Griswold did tell you he had been in there?

A. Yes, sir.

Q. He told you of these two claims?

A. Yes, sir.

Q. Afterwards you bought them and got the benefit of them? A. Yes, sir.

Q. You knew that Griswold went over that township there?

A. He was supposed to have gone into that township; I don't know that he ever did.

Q. This section 30-15-13, who found that—the southwest quarter of section 30-15-13?

A. I would have to look up the map to see. That was a timber and stone claim reported by Mr. Griswold, but it fell away short of the required estimate that was on it.

Q. You got it did you?

A. Yes, sir; 400,000 feet.

Q. This was one of the claims Griswold paid Watson for you? A. I don't remember.

Q. The Norman Newell 22-15-16; who took that up?

A. Norman Newell took it up.

Q. Who found that?

A. I think Pepper did.

Q. Did Griswold have anything to do with that?

A. I don't know.

Q. Did he ever talk to you about it?

A. I don't know; Pepper showed the boundaries to the party.

Q. Did you get anybody to go there and take it up?

A. No, sir.

Q. When did you first get any information of that claim?

A. Shortly after Newell took that up.

Q. You never knew anything about it before?

A. No, sir; not from Griswold Tepper told me that the ground was vacant and that there was good timber in there.

Q. Who gave you the boundaries?

A. I never saw the boundaries.

Q. You got the land, didn't you? A. Yes, sir.

Q. You got from Newell the boundaries, didn't you? I mean the description. A. Yes, sir.

Q. Did Newell give them to you? A. Yes, sir.

Q. Is that the first man that gave them to you?

A. It was Newell or Tepper.

Q. Did anyone else? A. No, sir.

Q. Did Griswold ever talk to you about it?

A. Not that I know of.

Q. You say he did not? A. He did not.

Q. The W. Miller 22-15-16; who found that claim?

A. I am mistaken about Newell; the Newell claim came entirely through Jamieson; I was mistaken in that piece entirely.

Q. Was he in your employ at that time?

A. Yes, sir.

Q. You paid him for it? A. Yes, sir.

Q. Did Griswoldl ever talk to you about Jamieson getting that claim? A. No, sir.

Q. He never asked you to pay for it?

A. Mr. Griswold and I settled on all these claims at one time.

Q. Did he say anything about this claim?

A. He never claimed any commission; no, sir.

Q. The S. C. G. Cobban claim 20-14-15; who found that?

A. Mr. Jamieson and Mr. Cobban together.

Q. Did Griswold ever talk to you about that claim?

A. He never recommended it; he might have talked about it as he did about a great deal of the land up there but he never sent in any report of that.

Q. As a matter of fact, the work Mr. Griswold engaged in, the main part of the work was finding these locations? A. Yes, sir, certainly.

Q. Was Mr. Griswold employed to get people to go on them?

A. He was to give me a report of these claims; I had no other way to find it out.

Q. He did talk to you about claims in this country?

A. Some of them.

Q. Did you send Cobban on that claim?

A. He went up himself.

Q. Who did he go with? A. He went with me.

Q. How did you find it?

A. Mr. Jamieson showed it to me and I paid for it.

Q. Where was Jamieson? A. At his house.

Q. Did you have an engagement with him?

A. I think I did.

Q. Did you go expressly for that purpose?

A. We went to find some claims for these parties.

Q. Did you see Griswold on that trip?

A. I don't know.

Q. Was he not at Helena at that time on business for you? A. I don't know.

Q. Mr. Griswold was frequently at Helena for you, was he not?

A. Yes, sir; at times for himself and myself.

Q. Is it not a fact when you would go away he would have Jamieson or Kilburn work for him, have charge of his business?

A. No, I don't know, from time to time Mr. Jamieson worked for him and Kilburn worked for him, and I had both of these parties working for me also.

Q. Will you state, now, when this was you went up there with Mr. Cobban to the best of your recollection?

A. Why, it was somewhere, I judge, about September, 1899.

Q. When did you tell Griswold you did not want him to work for you and locate any more land or timber?

A. I think about the spring of 1900, sometime.

Q. State to the Court when you went up there in the fall of 1899 with Mr. Cobban. You say you paid Jamieson for locating this claim; do you know whether Mr. Jamieson was in Griswold's employ at that time?

A. He told me he was not; that is the best evidence I had of it.

Q. You don't know where Griswold was at that time?

A. No, sir; I had no idea.

Q. The O. C. Clark claim 14-14-15; who found that claim? A. Mr. Jamieson.

Q. Under the same conditions as the other?

A. Very similar, I wrote to Jamieson sometime before that Clark wanted to take up a claim and Jamieson said he would find him a good claim.

Q. You sent Clark up there?

A. Mr. Clark went up there.

Q. You was looking for a claim for ihm?

A. I was trying to find a good claim for him.

Q. You afterwards purchased it? A. Yes, sir.

Q. How long afterwards? A. A month or two.

Q. The two 40's in 24-16-16; who found this unsurveyed land?

A. I found them myself; Mr. Sparks and myself.

Q. Mr. Griswold had nothing to do with them?

A. No, sir, he did not.

Q. Do you know whether or no he located them?

A. I know he did not.

Q. Do you know wether he was on the land?

A. I don't know; he might have been on the land a good many times?

Q. Did you ever talk with him about it?

A. No, sir; I found them when I was looking up this ground; it was accidental. A man by the name of Scotty told me about them, and I immediately got scrip and got them.

Q. The 4 40's in 22-13-17; who found these?

A. Mr. Dodd.

Q. Harrison Dodd? A. Yes, sir.

Q. Where was Griswold at that time?

A. He was working in his own territory, I think; this was outside of his territory, and had nothing to do with that part of the country.

Q. Was this in the Gold Creek country?

A. No, sir, it was on the Blackfoot.

Q. Was not Griswold under contract to locate timber in any part of territory of Missoula mountains?

A. Yes, sir; he never found this timber. The verbal

agreement between us was that I was to have this lower territory as it was nearer to Missoula.

Q. As a matter of fact, Griswold didn't have this information you had it?

A. I knew where some of this was; yes, sir.

Q. Have you not paid Griswold for locating in the same section? A. Not in that township.

Q. Did not you in section 24-13-17?

A. No, sir; I never paid him anything.

Q. How about the 15 40's in 13-17-17?

A. The same condition as the 4 40's. We employed Dodd. I went and looked the country over myself before Mr. Dodd, and never received a report from Griswold in any way, shape or manner.

Q. That is not in excluded territory, is it?

A. Yes, sir.

Q. Where is that?

A. That is about 15 miles from here.

Q. What contract did that come under?

A. It was simply a verbal agreement that he was to work in the upper country and not interfere down here on the other end. I employed Dodd myself and paid him.

Q. This is the statement you submitted to Griswold, is it not? A. Yes, sir.

Q. The 15 40's in 13-14-17?

A. I was over it; it was located by Dodd. Griswold didn't have anything to do with it. I looked that over with Dodd and paid him for it.

Q. Is that in the excluded territory?

A. Certainly, it was outside of that; had it been in his

territory he did not have exclusive right. I was to take timber wherever I could find it; he was to get pay for what he reported to me. It was never reported to me in any way, shape or manner.

Q. These 40's in 12-13-17?

A. I never scrip but 5 40's in them; these were reported by Peterson, to whom I paid $25. I never heard anything about them from Griswold. They were also in the territory Griswold had nothing to do with under our verbal arrangement.

Q. How about the 9 40's in 32-14-17?

A. There was only 8 40's located in that section by me. These are in the same shape, reported by Dodd and paid by me; he was in my employ and Griswold never gave me any report or any information in any way, shape or manner.

Q. You don't know whether he found them or not?

A. I have every reason to believe that he did not, as he never reported them in any way?

Q. The 4 40's in 34-14-17?

A. These are in the same condition; no report was ever received from Griswold, and no claim made for them.

Q. The 8 40's in 22-14-17?

A. These are the same condition.

Q. Most all of these are unsurveyed?

A. Yes, sir.

Q. Dodd was instrumental in getting most of these?

A. Yes, sir.

Q. Those in 13-17, did Kilburn report to you any of them?

A. I employed Kilburn to report on them; I sent Kilburn up there.

Q. Did you have a report?

A. I employed Kilburn to make that report and paid Kilburn; he had been working for Griswold prior to that time. I made a special arrangement with Griswold and sent Kilburn to make these estimates after I had scrip them.

Q. Who first reported timber out on that section to you?

A. I can't tell you; I don't remember.

Q. Did Griswold?

A. I don't know; he might have told me there was some timber cut there; he knew I had scrip that land myself.

Q. Mr. Cobban, you say Griswold went to Helena frequently for you?

A. Sometimes he went for me and sometimes he went for other people.

Q. Did you pay him?

(Counsel for defendant objects to this as irrelevant and immaterial. Objection sustained.)

Q. I will ask you this question; if, in the course of the employment of Griswold, if you would have occasion to send him to Helena frequently?

(Counsel for defendant objects to this as irrelevant and immaterial. Objection sustained.)

Q. Mr. Cobban, you say Mr. Griswold settled in the fall with you, did he? A. Yes, sir.

Q. When?

A. About the 1st day of December, 1900.

Q. Where? A. At my office.

Q. How much money did you pay him on that occasion?

A. I think the amount of payment was made by the bank somewhere about $180.00.

Q. Look at that better, did you write that?

A. Yes, sir.

(Letter introduced in evidence marked Exhibit "E."

Q. Look at that, is that the account submitted by you?

A. Yes, sir.

Q. Was that at the time you paid him in full?

A. This last one was; I don't know about the other two, just when they were rendered.

(This paper offered in evidence and marked Exhibit "Q.")

Q. You say you paid this note, $483.95, at that time at the bank?

A. The last payment was made along the first part of December.

Q. Are these things taken from your books, these items? A. Yes, sir.

Q. All of them?

A. This first page is, yes, sir; all of the pages.

Q. How did you pay that $483.95?

A. Well, I don't know. There was one payment made on August 2d of $282.00. I don't remember whether it was made by me or Griswold.

Q. Whose name was it?

A. I could not tell without going into the books.

Q. You have credited him there with $483.95?

A. Yes, sir.

Q. Did you ever pay any money on that note for Griswold? A. Yes, sir.

Q. How much?

A. I paid the last payment that was made when that note was taken up of $186.80 or somewhere about that amount at that time. I don't remember whether I made the other payment or not; the statement rendered there will show.

Q. When you paid it, did you charge this account with it? A. Certainly.

Q. Where is it?

A. It might not have appeared here as being paid on the note; it was charged on the cash or check.

Q. Can you find it anywhere?

A. I could by looking at my books.

Q. Was this statement taken from your books?

A. Yes, sir.

Q. Does these show all the transactions with Griswold? A. Yes, sir.

Q. Then it must be incorrect?

A. It does not go into the total, but my books might show it.

Q. Is that $186.80—is that on that note?

A. Yes, sir.

Q. Are you positive of that? A. Yes, sir.

Q. There is $186.80 on this $483.95; is there any other further payment in your account against him?

A. I can't tell you.

Q. How do you claim you had a settlement with Griswold and the balance of the last settlement as constituted you owed him $175.17?

A. I will explain that. I will explain how that difference came. The amount I owned him $175.17, Mr. Griswold claimed I had had some money not my own at one time in the summer before we had a lot there that should have been put in the bank. There was some interest accrued that I should have liquidated. That was $11 and some cents, and added to the $175.17 makes $186.80 paid to the bank. The reason was, I was in California when Griswold had some money on my books; if that money had been paid, then, to the bank it would have saved interest on the note, amounting to $11 and some cents. That, together with the $175, makes the amount we paid to the bank in full settlement on that date.

Q. You went to the bank with Griswold?

A. Yes, sir.

Q. Did you tell Griswold at that time this was a final settlement?

A. Mr. Griswold and I agreed to that.

Q. Was it not said there upon that occasion that the bank wanted payment and Griswold said he will take some money on account?

A. No, sir, it was not; it was absolutely the other way It was a positive settlement.

Q. Who was present at the time?

A. I think Pound was in the office at the time.

Q. Did Griswold accept it at that time?

A. Yes, sir; there is the statement of settlement.

Q. Was there an explanation on his part?

A. He said he ought to be entitled to credit on account of some of that timber that Dodd had estimated, and I asked him why that he had nothing to do with it whatever, and then he said let it go.

Q. Is it not a fact, Mr. Cobban, that the next day Mr. Griswold came to you and said that he wanted to submit a statement to you of his account—didn't he do that?

A. No, sir.

Q. Did he not sometime afterwards?

A. No, sir.

Q. At the time you say this final settlement was had, was Griswold still in your employ?

A. No, sir.

Q. When did he quit?

A. There had been no timber taken for quite a long time; I had not been buying timber for sometime; the last work he done was outside of the contract. This work on the Blackfoot and nine days for something entirely outside of the contract. The Bitterroot was for posting notices. I had quit buying timber quite a long time before.

Q. Did you not tell Wells about this time that you did not like the way Griswold had acted with the Wells claim; that he did not get these claims for you, and you did not have any use for him?

(Counsel for defendant objects to this as wholly immaterial. Objection sustained.)

Q. When Griswold came to you for this statement what time after this did you give it to him?

A. He had had this statement repeatedly. I told him when he brought his statement in I would give it to him and I wanted him to render me a statement if he considered there was a difference.

Q. Didn't you refuse to give him a statement?

A. I furnished him a statement.

Q. That is this statement? A. Yes, sir.

Q. How long afterwards?

A. I don't know; I judge, perhaps, two weeks.

Q. Was it not in January?

A. I cannot tell you, but it was a very short time after he made a demand of complete statement.

Q. Then he was not satisfied?

A. Apparently not. He was at the time the settlement was made.

Q. At the time of this settlement with Griswold did you discuss these items of $914.90, balance of timber account?

A. No, sir; he did not. He had his statement all along; many times I had settlements with him, three or four times; every time I made a statement to the clerk I would make a statement to him, and between times he would come in and see Pound how his account was.

Q. You say he never made any objection to these items? A. No, sir.

Q. Didn't ask you how you arrived at it?

A. He made no objection to the settlement he had had his previous settlement and had a statement March 10th with all of these items.

Q. You say you gave him various statements from time to time; did you keep a copy of them?

A. Yes, sir.

Q. Where are they?

A. I think they are submitted in the statement rendered to Griswold about January 1st.

Q. Is this one of the statements? A. Yes, sir.

Q. Have you any other? A. Yes, sir.

Q. Where? A. In my books.

Q. When was the one preceding this?

A. At the time it was agreed, the statement shows when he was credited with these various amounts.

Q. Griswold put his name there for what purpose was it? A. It was O. K.'d as being correct.

Q. What did you say to him?

A. I don't remember of his signing that I don't know where he did sign that.

Q. You did not say to him you wanted to have a copy merely showing the O. K.?

A. Most certainly I did not.

Q. That was the reason you got him to sign it?

A. No, sir.

State of Montana,
County of Missoula. } ss.

Wm. M. Glenny, being first duly sworn, deposes and says: He was on the 7th day of May, 1901, duly appointed and qualified and acting court stenographer for the Fourth Judicial District of the State of Montana; that on said 7th day of May, 1901, as such court stenog-

rapher, he took in shorthand the testimony given in a certain action then pending in the District Court of the Fourth Judicial District in and for Missoula County, State of Montana, tried before S. G. Murrey, referee, wherein C. L. Griswold was plaintiff and R. M. Cobban was defndant; that R. M. Cobban was a witness and testified in said action in his own behalf; that the foregoing is a full, true, and correct transcript of the evidence of said R. M. Cobban given on the trial of said cause.

WM. M. GLENNY.

Subscribed and sworn to before me this 25th day of April, 1902.

[Seal] FRANK WOODY,

Notary Public in and for the County of Missoula, State of Montana.

Complainant's Exhibit 345. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy Clerk.

Complainant's Exhibit No. 346.

REGISTER OF CIVIL ACTIONS, DISTRICT COURT.

242.

No.	Title of Cause.	Action.	Attorneys.
	Chauncey L. Griswold		Duncan and Draffen.
1886	vs.	Account.	
	Robert M. Cobban.		E. B. Howell.
			E. E. Hershey.
			Marshall and Stiff.

Date				
Month.	Day.	Year.	Proceedings.	Costs Paid.
Jany.	21,	1901.	Filed complaint	1 5.00
Jany.	21,	1901.	Issued summons and handed to Atty. Draffen	2
Jany.	24,	1901.	Filed summons on return of service	
Feby.	6,	1901.	Filed demand for statement of account	3 2.50
Feby.	9,	1901.	Filed demurrer	4
Feby.	25,	1901.	Dem. overruled by consent of deft. and deft. granted 3 days in which to file an answer	
Feby.	28,	1901.	Filed notice and motion for corrected and specified, itemized statement of acct.	5
Feby.	28,	1901.	Filed answer	6
March	2,	1901.	Filed additional bill of particulars.....	7
March	2.	1901.	Cause on trial, motion for corrected and itemized statement argued and sustained; plaintiff granted till March 4th to furnish itemized account	
March	4.	1901.	Filed replication at 10:30 A. M.	8

March	4, 1901.	Filed notice and motion to withdraw answer	9
March	4, 1901.	Motion to withdraw argued and taken under advisement	
March	5, 1901.	Motion to withdraw etc. overruled and defendant granted 5 days to file amended answer	
March	9, 1901.	Filed amended answer ...	10
March	12, 1901.	Filed replication to amended answer	11
May	28, 1901.	Cause set for hearing June 6th, 9 A. M.	

Month.	Day.	Year.	Proceedings.	Costs paid.
June	3,	1901.	Issued 3 subpoenas for defendant handed T. E. Evans	12
June	5,	1901.	Filed subpoena returned as served	
June	6,	1901.	Issued 4 subpoenas for defendant	13
June	6,	1901.	By agreement in open court this cause referred to referee, attorneys to agree on referee and file stipulation	
June	6,	1901.	Filed stipulation	14
June	6,	1901.	Filed order appointing S. G. Murray, referee....	15

June 6, 1901. Filed oath of S. G. Murray, referee 16

June 7, 1901. Filed affidavit of witness Edward Dodd 17

June 8, 1901. Issued subpoena for Wm. Sparks handed C. L. Griswold 18

June 12, 1901. By agreement of counsel for both parties, the order appointing referee vacated on motion of plaintiff's atty. case dismissed, and leave granted to withdraw all papers filed as exhibits.....

Office of the Clerk of the District Court of the Fourth Judicial District of the State of Montana, in and for the County of Missoula. } ss.

I, R. W. Kemp, clerk of the Fourth Judicial District Court of the State of Montana, in and for the County of Missoula, said court being a court of record, having a common-law jurisdiction, and a clerk and seal, do certify that the above is a true copy of page 242, Register of Civil Actions. Dist. Court in cause, Griswold vs. Cobban, No. 1886, as the same appears upon the records of said court, now in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Missoula, Montana,

this 12th day of August, in the year of our Lord, one thousand nine hundred and two.

[Seal] R. W. KEMP,
Clerk.

[Endorsed]: Complts. Exhibit 346. H. N. Blake, Examiner. Filed and entered Aug. 28th,1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy

---

Complainant's Exhibit No. 347.

DEEDED CLAIMS.

Robert Starkie	685
M. R. Stairs	1210
Irene Hendrix	635
Mary Starkie	835
Albert Ehle	680
J. B. Reeve	795
Eliza A. Reeve	845
Jno. Murtaugh	695
Vital Cyr	1070
Levi B. Cyr	400
Ambrose Martin	883
Joseph Frizzel	840
Jas. B. Seeley	560
Herman Spieker	1225
Total	11360

SCRIP LANDS.

	Sec.	Tshp.	Rge.	
E2 NE4	10	16	16	800
N2 NW4				
W2 NE4	12	16	16	920
NE4	22	16	15	1360
NW4	22	16	15	1490
SE4	22	16	15	1925
NE4	34	16	15	942
S2 S2	20	16	13	1165
6:40's	26	16	13	1665
7:40's	28	16	13	1700
4:40's	30	16	13	1010
3:40's	32	16	13	1180
7:40's	34	16	13	2130
3:40's	32	16	12	700
6:40's	34	16	12	1700
N2 S2	10	15	13	1300
NW4 NW4	30	15	13	200
S2	20	15	11	2615
S2	30	15	11	2675
6:40's	2	14	17	1350
2:40's	10	14	17	410
7:40's	14	14	17	1370
5:40's	24	14	17	950
NW4 SE4	4	14	13	250
Total				29807

CONDITIONAL

(If not adversed.)

NW4 .... 2 14 11 1160

[Endorsed]: Complts. Exhibit 347. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit "A."

This agreement made and entered into this 22d day of May, 1899, by and between R. M. Cobban of Missoula, Montana, the party of the first part and C. L. Griswold of Clearwater, Deer Lodge County, Montana, the party of the second part, witnesseth:

That the said first party is desirous of acquiring title to good timber lands in Misoula or Deer Lodge County, Montana. And whereas, the said second party from his location and acquaintance with the country is in position to acquire it for said first party. Therefore this agreement. Said second party agrees to work to the best of his ability in securing options on any desirable timber land that can be purchased at a reasonable figure.

Second to find locations of timber on surveyed lands which are open for location under the Timber and Stone Act and that will justify the location thereof at the present time; that to find good bodies of timber outside of the timber reserve and in a location that will justify the expenditure of eight hundred dollars for scrip

with which to purchase the same. And in all cases to turn the same over to the said R. M. Cobban. And said first party agrees to and with the said second party that he will so far as possible examine the various selections made by said second party. And that so far as possible he will purchase the said lands when the price is satisfactory.

Second will where he is satisfied with the amount and quality of land subject to location to send parties to locate the same. And further to pay to the said C. L. Griswold on each claim hereafter purchased or any option hereafter acquired by said second party the sum of five cents per thousand feet or fifty dollars for each million feet of saw timber, as usually estimated in the state of Montana. And the same amount for each location made on lands selected by said second party but filed on by parties whom first party may furnish. Or the same amount to be paid to second party on any claim which shall be taken by the second party by the location of scrip. In any and all cases said second party is to show the boundary lines for the said claims to any parties whom first party may send for the purpose. It is mutually agreed that in the actual purchase of land or the location of scrip, the said sum of five cents per thousand feet of saw timber as measured by the larger buyers of western Montana shall be paid to second party when receiver's receipt is issued. In the matter of location under the Timber and Stone Act, the commission is to be paid when the receiver's receipt is issued and the land properly transferred to

the first party or his assigns. This where the location has been made by parties furnished by second party. But where the location are accepted and filed on by parties sent by the first party, then the commission to be paid as soon as an estimate can be reasonably made, not exceeding 30 days. But such amount to be returned to first party in case the entry shall be contested and lost, on the ground that it was not subject to entry under the timber and stone law. Said R. M. Cobban agreeing to furnish a reasonable amount of money to said second party to be used in buying options and Patented timber claims coming within the meaning of this contract. In other words, first party on receipt of title is to pay to said second party five cents per thousand feet on all timber acquired through the said second party. Except the two pieces receipted for May 6th 1899. And said second party agrees to acquire said lands at lowest possible price for the said first party giving to said first party all benefit derived from commission or discounts except as above mentioned.

In witness whereof the parties hereto have set their hands and seals.

R. M. COBBAN.

C. L. GRISWOLD.

Executed in duplicate.

Original.

[Endorsed]: Exhibit "A," Complainant. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit "B."

DESCRIPTION AND ESTIMATE OF LANDS SOLD TO W. A. CLARK BY R. M. COBBAN, November 11th, 1899.

Former Owner. Description of Land.	Sec.	Twp.	Rge.	Estimate. Pine.	Tam.	Fir.	Total.	Logs To M.
A. Johnson, Lot I & 2 & S2NE4	2	13	16	230	250	260	740	9
A. Jacobson, Southwest 4	2	13	16	465	90	130	685	9
J. G. Smith, Southwest 4	34	13	16				550	
J. W. Chattin, S2SE4	34	13	16	50%	50%		250	5
J. D. Beaton, N2NE4 N2NW4	32	13	16		80%	20%	1200	5
H. A. Amereaux, Land in	30	13	15				420	
Hiram Dodd, S2SE4 NW4SE4 & NE4SW4	6	14	13	170	230	360	760	9
Matilda Dodd, W2NE4 SE4NW4; Lot 2	18	14	13	150	400	195	745	8-9
Harrison Dodd, E2NE4 N2SE4	18	14	13	115	420	290	825	9
Lizzie Dodd, Lots 5, 6, 7 & SE4SW4	6	14	13	250	140	220	610	9
Edward Dodd, Northwest 4	8	14	13	615		350	965	9
Cora Dodd, Lots 3, 4, E2SW4	18	14	13	535	400	265	1200	9

Former Owner. Description of Land.	Sec.	Twp.	Rge.	Estimate. Pine.	Tam.	Fir.	Total.	Logs To M.
M. Watson, Northeast 4	12	14	14	410	60	150	620	8-9
T. H. McConnell, N2NW4 SE4NW4 SW4NE4	24	14	14	100	415	345	960	9
C. B. Sperry, N2SE4 NE4SW4 SE4NE4	24	14	14	180	695	400	1235	9
Harriet Watson, N2SE4 NE4SW4 SE4NW4	12	14	14	390	70	130	590	8-9
D. E. Watson, W2SW4 NE4SW4 SW4NW4	2	15	14	90	530	265	885	8-9
G. P. Jameson, Southeast 4	4	14	15	390	125	325	840	9
W. J. Eddy, S2SE4 S2SW4	8	14	15	425		150	575	9
L. I. Gilman, E2NE4 SW4NE4 NW4SE4	8	14	15	365	20	145	530	9
R. M. Jameson, S2SW4 S2SE4	6	14	15	250	155	130	535	10
Alb. Jameson, Southwest 4	10	14	15				700	
J. C. Gilman, W2SW4 NE4SW4 SW4NW4	4	14	15	235	360	370	965	9
Emma Dildine, E2SE4 SW4SE4 SE4SW4	12	14	15	890	300	45	1235	8-9
Geo. Dildine, W2NW4 N2SW4	8	14	15	760		260	1020	9
J. F. Jameson, Northwest 4	10	14	15				900	
Matilda Eddy, SE4NE4 N2SE4 SE4SE4	14	14	15	685	20	115	820	9

Former Owner. Description of Land.	Sec.	Twp.	Rge.	Estimate. Pine.	Tam.	Fir.	Total.	Logs To M.
Sarah Yarger, W2NW4 W2SW4	12	14	15	740	20	55	815	9
Thos. Roll, Northeast quarter	10	14	16				720	
Anna A. Rowe, NW4NW4	28	14	16	100%			125	8
B. F. Tippetts, S2NW4 W2SW4	2	14	16	45%	15%	40%	1075	9
A. J. Jameson, E2NW4 E2SW4	10	14	16	15%	40%	45%	750	9
Jas. W. Wheaton, Southwest quarter	4	14	16	255	305	215	775	9
Mary Eddy, W2 NW4 W2SW4	10	14	16				825	
Herbert Eddy, E2NE4 E2SE4	28	15	16	20%	30%	50%	1060	8
E. D. Doney								
Timber only, E2NE4 NW4NE4 NE4NW4	24	15	12	940			940	5
Alf. Stewart, NE4 (Timber only)	18	15	12	675			675	5
N. O. Opsata, SE4 (Timber only)	2	15	13	565			565	8
L. T. Bryan, NW4	24	15	14				625	
J. B. Catlin, Lots 4, 5, 6, 7,	6	15	14				1050	
Leon Barrett, Lots 2, 3, SE4NW4, NE4SW4	6	15	14				1100	

Former Owner. Description of Land.	Sec.	Twp.	Rge.	Estimate. Pine.	Tam.	Fir.	Total.	Logs To M.
Belle Bryan, W2SE4 SW4NE4, SE4SW4	6	15	14				650	
Edg. Leeman, Lot 1, SE4NE4 E2SE4	6	15	14				500	
M. B. Watson, SE4	2	15	14	30	260	540	830	8-9
H. C. Dorman, S2NE4 Lots 2, 3	4	15	14				625	
Chas. Moss, W2NE4 Lots 2, 3,	8	15	14	250	140	180	570	9
D. L. Chattin, SE4	10	15	15	25	655	240	925	8-9
J. L. Deering, SW4	10	15	15	125	235	335	695	9
Jno. Saleen, W2NW4 NE4NW4	10	15	15	100	315	130	545	9
C. C. Snyder, Lots 1, 2, 3,	2	15	15	85	230	155	470	10
M. P. Dunham, Lots 1, 2, 3,	4	15	15	25	435	125	585	
F. B. Arey, Lot 4, N2SW4	4	15	15	140	315	175	630	9
Dan McGillis, Lots 2, 3, E2SW4	6	15	15	170	230	180	580	9
R. Pelky, N2NW4	24	15	15	265	25	105	445	9
Evel. Jameson, W2NW4 W2SW4	34	15	16	505	260	455	1220	8
Jas. Mize, E2NW4 E2SW4	34	15	16	270	105	385	870	9

Former Owner. Description of Land.	Sec.	Twp.	Rge.	Estimate. Pine.	Tam.	Fir.	Total.	Logs To M.
Laura Roll, W2SE4 S2SW4	26	15	16	50	300	510	860	8-9
C. H. Jameson, S2SW4 NE4SW4 SE4NW4	28	15	16	35	435	430	900	9
Calvin Yarger, W2NE4 W2SE4	28	15	16	20%	30%	50%	820	8
Zora Jameson, W2NE4 W2SE4	34	15	16	260	80	350	690	9
Jannie Mize, E2NE4 E2SE4	34	15	16	200	145	300	645	8-9
May Hawthorne, Lots 1, 2, S2NE4	4	15	12	50%			1300	10
L. A. Wells, E2NE4 E2SE4	22	15	12	50%		50%	1275	7
Lizzie Wells, W2SE4 E2SW4	8	14	13	800		315	1115	9-10
E. M. Hardy, Lots 1, 2, 7, 8, or SE4	32	15	15		640	115	755	9-10
J. H. Hardy, Lots 3, 4, 5, 6, or SW4	32	15	15		700	500	1200	10
J. G. Hendrix, W2NW4 W2SW4	32	14	15	270	440	140	850	9
M. E. Wright, S2SW4 NE4SW4 Lot 4	12	15	15	25	445	555	1025	10
L. T. Catlin, NW4	12	15	15	295	180	475	950	9

[Endorsed]: Complainant's Exhibit "B." H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit "C."

C. L. Griswold in Account with R. M. Cobban

May	22.	To Check.....	100		
		Cash..	.50	150	
July	10.	To Check....		150	
	13.	To Check.....	140	140	
	29	To Check		50	
	29.	To Cash.....		270	
	29.	To Cash..... ..		1640	
	11.	To Check.....		1000	
	11.	To Cash.....		100	
	11.	To Cash.....		34.50	
	16.	To Ex charge on Gillis lands.....		33.65	
Sept.	10.	To Check Aug. 31...		50	
	10.	To paid order D. J. & Faust, 8/19.....		100	
		To Cash.....		25	
	10.	To Check to Kilburn		50	
	12.	To Check..... ...		40	
	13.	To Check..... ..		25	
	16.	To Check..... ...		20	
	18.	To Check date 21st..		150	
		Contra			
July	22.	By cash on certain claims....		135	
Aug.	8.	By Gillis lands.. ...	800		
		By Combie lands	500		1300
	11.	By paid Kilburn..			50

16.	By Ex on O-L-C-W claims..	270
16.	By services on certain claims.... ..	34 50
16.	By pd. Oscar Muskhirn....	20
16.	By the Pelky proof..	424 75
16.	By the Pelky cash..	20
	By F. B. Chattin proof..	424 75
16.	Expenses Helena E. M. Gagnon..	35
16.	Expenses Helena Ed. Dodd..	45
Sept. 14.	By expenses Helena on Bryan & Catlin proof	1250
18.	By estimate per I. B. of this date ...	130650

[Endorsed]: Complainant's Exhibit "C." Henry N. Blake, Examiner. Filed and Entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Complainant's Exhibit "D."

R. M. Cobban Samuel Dinsmore

COBBAN & DINSMORE.

REAL ESTATE AND LOANS.

Missoula, Montana, ————

G. P. Jemison.

R. M. Jam.

Zora Jemison.

John T. Hindrix.

Robert Starkie.

John B. Reeve.

Scott.

Northy.

J. F. Jemison.
Miss Dildine.
Miss Jemison.
Miss Roll.
Albert Jemison.
Miss Yarger.
J. P. Gilman.
Miss Gilman.
Recy Jenison.
M. J. Eddie.
G. Dildine.
Calvin Yarger.
Herb Eddie.
Miss Eddie.
Thomas Roll.
James Wheaton.
Mary Eddie.
A. J. Jemison.
James Mize.
Jennie Mize.
C. H. Jemison.

(The following written in pencil on back:)

John B. Reeve.

Robt. Starkey.

Irene Hendricks.

Mrs. Starkey.

Mrs. Reeve.

Albert Ehle.

[Endorsed]: Complainant's Exhibit "D." H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

UNITED STATES,
vs. } 157.
WILLIAM A. CLARK.

This envelope contains:

1—Original contract of R. M. Cobban and C. L. Griswold.

2—Duplicate contract of R. M. Cobban and C. L. Griswold.

3—Statement of account of C. L. Griswold with R. M. Cobban.

4—Deed Allen Dodd to R. M. Cobban.

5—Deed D. E. Watson and wife to R. M. Cobban.

6—Deed M. B. Watson and wife to R. M. Cobban.

7—Deed M. B. Watson and wife to R. M. Cobban.

8—Deed Edw. Dodd and wife to R. M. Cobban.

Filed and entered Aug. 28, 1902.

GEO. W. SPROULE,
Clerk.
By F. H. Drake,
Deputy.

(Envelope was opened by order of Judge Knowles, and the following are true copies of said papers:)

Exhibit "A"

This agreement made and entered into this 22d day of May, 1899, by and between R. M. Cobban of Missoula, Montana, the party of the first part and C. L. Griswold of Clearwater, Dear Lodge County, Montana, the party of the second part, witnesseth:

That said first party is desirous of acquiring title to good timber land in Missoula or Deer Lodge County, Montana. And whereas the said second party from his location and acquaintance with the country is in position to acquire it for said first party therefore this agreement:

Said second party agrees to work to the best of his ability in securing options on any desirable timber land that can be purchased at a reasonable figure. Second, to find locations of timber on surveyed land which are open for location under the timber and stone act and that will justify the location thereof at the present time. Third, to find good bodies of timber outside of the timber reserve and in a location that will justify the expenditure of eight hundred dollars for scrip with which to purchase the same and in all cases to turn the same over to the said R. M. Cobban. And said first party agrees to and with the said second party that he will so far as possible examine the various selections made by said second party and that so far as possible he will purchase the said lands when the price is satisfactory. Second. Will, where he is satisfied with the amount and quality of land subject to location, to send

parties to locate the same, and further to pay to the said C. L. Griswold on each claim hereafter purchased on any option hereafter acquired by second party, the sum of five cents per thousand feet or fifty dollars for each million feet of saw timber as usually estimated in the State of Montana and the same amount for each location made on lands selected by second party but filed on by parties whom first party may furnish or the same amount to be paid to second party on any claim which shall be taken by second party by the location of scrip. In any and all cases said second party is to show the boundary lines for the said claims to any parties whom first party may send for the purpose. It is mutually agreed that in the actual purchase of lands or the location by scrip the said sum of five cents per thousand feet of saw timber as measured by the larger buyers of Western Montana shall be paid to second party when receiver's receipt is issued. In the matter of locations under the timber and stone act the commission is to be paid when receiver's receipt is issued and the land properly transferred to first party or assign this where the location has been made by parties furnished by second party but where the locations are accepted and filed on by parties sent by first party, then the commission to be paid as soon as an estimate can be reasonably made not exceeding 30 days, but such amount to be returned to first party in case the entry should be contested and lost on the ground that it was not subject to entry under the timber and stone laws. Said R. M. Cobban agreeing to furnish a rea-

sonable amount of money to said second party to be used in buying options on patented timber claims coming within the meaning of this contract.

In other words, first party on receipt of title is to pay to said second party first cents per thousand on all timber acquired through the said second party except the two pieces receipted for May 6th, 1899, and said second party agrees to acquire said lands at the lowest possible price for the said first party giving to said first party all benefit derived from commission or discount except as above mentioned. In witness whereof the parties hereto have set their hands and seals.

Executed in duplicate.

Original.

R. M. COBBAN.

C. L. GRISWOLD.

[Endorsed]: Agreement. R. M. Cobban with C. L. Griswold. Exhibit "A." Filed and entered August 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

This agreement made and entered into this 22d day of May, 1899, by and between R. M. Cobban of Missoula, Montana, the party of the first part, and C. L. Griswold of Clearwater, Deer Lodge County, Montana, the party of the second part, witnesseth:

That said first party is desirous of acquiring title to good timber land in Missoula or Deer Lodge Counties, Montana. And, whereas, the said second party from his location and acquaintance with the country is in

position to acquire it for said first party, therefore this agreement.

Said second party agrees to work to the best of his ability in securing options on any desirable timber land that can be purchased at a reasonable figure. Second, to find locations of timber on surveyed land which are open for location under the timber and stone act and that will justify the location thereof at the present time. Third, to find good bodies of timber outside of the timber reserve and in a location that will justify the expenditure of eight hundred dollars for scrip with which to purchase the same, and in all cases to turn the same over to the said Cobban. And said first party agrees to and with the said second party that he will so far as possible examine the various selections made by said second party, and that so far as possible he will purchase the said lands when the price is satisfactory. Second. Will, where he is satisfied with the amount and quality of land subject to location, to send parties to locate the same, and further to pay to the said C. L. Griswold on such claim hereafter purchased on any option hereafter acquired by second party, the sum of five cents per thousand feet or fifty dollars for each million feet of saw timber as usually estimated in the State of Montana, and the same amount for each location made on lands selected by second party but filed on by parties whom first party may furnish, or the same amount to be paid to second party on any claim which shall be taken by second party by the location of scrip. In any and all cases

said second party is to show the boundary lines for the said claims to any parties whom first party may send for the purpose. It is mutually agreed that in the actual purchase of lands or the locations by scrip, the said sum of five cents per thousand feet of saw timber as measured by the larger buyers of Western Montana, shall be paid to second party when receiver's receipt is issued. In the matter of location under the timber and stone act the commission is to be paid when receiver's receipt is issued and the land properly transferred to first party or assign this where the location has been made by parties furnished by second party, but where the locations are accepted and filed on by parties sent by first party, then the commission to be paid as soon as an estimate can be reasonably made not exceeding thirty days, but such amount to be returned to first party in case the entry should be contested and lost on the ground that it was not subject to entry under the timber and stone laws said R. M. Cobban agreeing to furnish a reasonable amount of money to said second party to be used in buying options on patented timber claims coming within the meaning of this contract.

In other words, first party on receipt of title, is to pay to said second party five cents per thousand on all timber acquired through the said second party except the two pieces receipted for May 6th, 1899, and said second party agrees to acquire said lands at the lowest possible price for the said first party, giving to said first party all benefit derived from commission or dis-

count except as above mentioned. In witness whereof the parties hereto have set their hands and seals.

Executed in duplicate.

Duplicate.

R. M. COBBAN.

C. L. GRISWOLD.

[Endorsed]: Agreement, R. M. Cobban with C. L. Griswold (491). Filed Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Exhibit "M."

W. M. G.

Missoula, Montana, Dec. 31, 1900.

C. L. GRISWOLD, In Account with R. M. COBBAN.

1899.

May	22.	To cash.. ....$	150.00
July	10.	To cash....	150.00
	13.	To cash.....	140.00
	29.	To cash.....	50.00
Aug.	1.	To cash on O. L. C. & M.	270.00
		To cash on options.. ...	400.00
		To cash for Gillis land..	400.00
	11.	To cash for Cloutier ...	840.00
	11.	To cash Chattin-Pelkie proof	1000.00
	11.	To cash....	100.00
	16.	Check	34.50
	16.	Excess of Charges on Gillis land	33.65
	19.	Cash to Jakways &	

		Faust	100.00
	19.	Check	50.00
Sept.	10.	Cash	25.00
	10.	Cash to Kilburn	50.00
	12.	Cash	40
	13.	Cash.....	25
	16.	Cash	20
	11.	Cash...	150
	23.	Cash	125.
	23.	Cash	20
	27.	Cash	20
	27.	Cash to Garnet Mining News	75
	27.	Cash Gagnon claims	535
	20.	Cash..	75
Oct.	7.	Cash	25.
	7.	Cash to Jamieson	35
	11.	Cash for six publications Dodd, Dodd Watson, Sperry, Wells, McConnell	82.50
	11.	Check	100
	11.	Check	175
	11.	Check to C. E. Johnson	32
	7.	Check to Jamieson	75
	25.	Cash	500
Nov.	20.	Cash to Watson	120
	20.	Cash	250
	27.	Cash	150
	28.	Cash	100

	29.	Cash	100
Dec.	1.	Cash	50
	7.	Cash to Kilburn	310
	4.	Cash to Sam Dinsmore	50
	9.	Cash to Dinsmore	30
	9.	To commission	25
	9.	Recording deeds	3.65
	9.	Revenue stamps	.95
	15.	Cash to Jamieson	103
	15.	Cash to Frizzell	20
	15.	Cash Insurance	25
	20.	Cash	351
1900.			
Jan.	1.	Cash	100
	1.	Cash to blacksmith	4
		Brot. ford..	7695.25
			7695.25
	1.	To orchard homes	100
Feb.	5.	Cash	25
	17.	Cash to Jakways & Faust	20
	17.	Cash to wife	60
Mch.	20.	Cash	50
Apr.	14.	Cash	25
May	17.	Orchard homes	100
	19.	Cash	20
	28.	Cash	901
	28.	Cash	250
	31.	Missoula Nursery	2.85
	31.	Orchard homes	50

July	11.	Cash on Staley timber..	400
	11.	Cash on Staley timber..	55
Aug.	8.	Cash	40
	23.	Cash	33.50
Sept.	21.	Cash to J. S. Gorrie...	50
	24.	Cash	20
Oct.	9.	Cash	25
	25.	Cash	100
Nov.	28.	Cash...	45
Dec.	3.	Cash.....	25
	17.	Cash.....	186

CREDITS.

July	22.	By amount paid on sundry claims	$ 135
Aug.	1.	Gillis deed	800
	1.	Cloutier deed	500
	11.	Amount paid Kilburn est.....	50
	16.	Ex. O. L. C. & M. claims	270
		Proving claims	34.50
		Cash to Oscar M...	20
		Land office fees Pelkie..	444.75
		Frank Chattin	424.75
		Expense to Helena	35
		Expenses E. Dodd, Helena	45
	18.	Locating 26150 M. See Statement "A"	1307.50

		Expenses Chattin & Barrett		12.50
Sept.	23.	Lehman deed		125
Oct.	11.	Check returned (Gagnon)		535
Nov.	11.	Expenses Sperry, Dodd, Watson, McConvell & Griswold		155.90
	26.	Locating 35238 M. See Statement "B"		1761.90
1900.				
Jany.	1.	Carson and Sharp timber		100
	27.	Locating 41167 M. See Statement "C"		2058.35
Mch.	28.	Note to First Nat'l Bank, Missoula		483.95
Aug.	14.	By Staley timber..		455
	24.	8 ds. labor on Blackfoot		40
	24.	2 ds. labor on Bitter Root		10
	24.	Expenses		23.50
Oct.	2.	Refund amt. paid on orchard homes		250
	16.	9 ds. labor $45; expenses $25.30		70.30
	16.	Bal. Connor & Seely claims		44.12
			$10279.40	10149.90
		Brot. Ford.....	10279.40	10147.90

Oct. 23.	By locating NW4 Sec. 2-14-11W 1160M.		58
23.	Nellie Ehle claim 710 M.		35.50
23.	Amount agreed upon for locating Seely, Combie claim 1055 M. at 2 1/2c		26.37
Dec. 17.	Interest paid to First National		11.63
		$10279.40	$10279.40
			10325.52

STATEMENT "A."

TIMBER LOCATED BY C. L. GRISWOLD.

Oscar Mucuhouse	600 M.
O. Muchmore	800
E. D. Doney	1025
Martha Doney	400
E. W. Hoyt	2690
L. D. Jakways.....	1975
E. Z. Faust..	1660
G. W. Muchmore	885
C. E. Johnson...	1300
W. M. Zander	700
Eliz Muchmore	415
Albert Muchmore	600
F. B. Chattin	900
Thos. Pelky	525
John Gillis, Sec. 12 14-13	875
C. Coultier	825

John White, Sec. 10 14-13 750
H. C. Chattin 625
Harriet Bryan 700
S. Tepper 700
Nelson Opsata 565
Stewart 675
Dunnigan 1100
E. D. Doney 935
J. B. Catlin 1050
L. Barrett..... 1100
Belle Bryan 650
E. Lehman 500
L. Z. Bryan 625

26,150 M. at 5c Per M. $1307.50

Combie

Exhibit "L." W. M. G.

STATEMENT "B."

TIMBER LOCATED BY C. L. GRISWOLD.

Hiram Dodd, S2 S2 NW SE NE SW 6-14-13.. 760 M.
Matilda Dodd, W2 NE SE NW lot 2, 18-14-13. 745
Harrison Dodd, E2 NE N2 SE 18-14-13..... 825
Lizzie Dodd, Lots 4-5-6-7 and SE S12 6-14-13.. 610
Edward Dodd, N.W4 8-14 13..... 965
Cora Dodd, Lot 3-4 E2 SW4 18-14-13..... 1200
K. Watson, NW4 12-14-14..... 620
T. H. McConvell, N2 NW SE NW SW NE 21-14-14... 960
C. B. Sperry, N2 SE NE SW SE NE 24-14-14 1233

Harriet Watson, N2 SE NE SW SE NW 12-14-14..... 590
D. E. Watson, W2 SW NE SW SW NW 12-15-14..... 885
G. P. Jemison, SE4 4-14-15..... 840
Albert Jemison, SW4 10-14-15..... 700
J. C. Gillman, W2 SW NE SW SW NW 4-14 15..... 965
Emma Dildine, E2 SE SW SE SE SW 12-14 15 1235
Geo. Dildine, W2 NW N2 SW 8-14-15..... 1020
J. F. Jemison, NW4 10-14-15..... 900
Matilda Eddy, SE NE N2 SE SE S2 14-14-15. 820
Sarah Yarger, W2 NW W2 SW 12-14-15..... 815
Thos. Roll, NW4 10-14-16..... 720
A. J. Jemison, S2 NW E2 SW 4-14-16..... 750
James W. Wheaton, SW4 4-14 16..... 775
Mary Eddy, W2 SW W2 NW 10-14-16..... 826
Herbert Eddy, E2 NE E2 SE 28-15-16..... 1060
M. B. Watson, NE4 12-14-14..... 830
R. Pelky, N2 NW4 24-15-15..... 445
Eva Jemison, W2 NW W2 SW 34-15-16..... 1220
James Mize, E2 NW4 E SW 34-15-16..... 870
Laura Roll, W2 SE S2 SW 26-15-16..... 860
C. H. Jemison, S2 SW NE SW SE NW 28-15 16..... 900
Calvin Yarger, W2 NE W2 SE 28-15-16..... 820
Zora Jemison, W2 NE W2 SE 34-15-16..... 690
Jennie Mize, N2 NE E2 SE 34-15-16..... 645
L. A. Wells, E2 NE S2 SE 22-15-12..... 1275

Lizzie Wells, W SE E2 SW 8-14-13..... 1115
J. G. Hendrix, W2 NW4 W2 SW 32-14-15.... 850
M. E. Wright, S2 SW4 NE SW Lot 4 12-15-15 1025
L. T. Catlin, NW4 12-15-15..... 950
May Hawthorne, Lot 1-2 S2 NE 4-15-12..... 1300
H. C. Dorman, S2 NE Lots 2 & 3 4-15-14.... 625

35238 M. at
5c per M. $1761.90.

No charge is made for the claims of W. J. Eddy, L. I. Gilman, and R. M. Jamison by C. L. Griswold, being less timber than guaranteed.

STATEMENT "C."

TIMBER LOCATED BY C. L. GRISWOLD.

DEEDED CLAIMS.

Robert Starkie .... 685 M.
M. R. Stairs 1210
Irene Hendrix 635
Mary Starkie 835
Albert Ehle.... 680
J. B. Reeve 795
Eliza A. Reeve. 845
Jno. Murtaugh 695
Vital Cyr 1070
Levi B. Cyr 400
Ambrose Martin 885
Joseph Frizzel.. 840
Jas. B. Seeley. 560
Merman Spieker 1225

11360 M

SCRIP LANDS.

	Sec.	Twp.	Rge.	
E2 NE4	10	16	16	800 M.
N2 NW4 W2 NE4.	12	16	16	920
NE4	22	16	15	1360
NW4	22	16	15	1490
SE4	22	16	15	1925
NE4	34	16	15	942
S2 S2	20	16	13	1165
6:40's	26	16	13	1665
7:40's	28	16	13	1700
4:40's	30	16	13	1010
3:40's	32	16	13	1180
7:40's	34	16	13	2130
3:40's	32	16	12	700
6:40's	34	16	12	1700
N2 S2	18	15	13	1300
NW4 NW4...	30	15	13	200
S2	20	15	11	2615
S2	30	15	11	2675
6:40's	2	14	17	1350
2:40's	10	14	17	410
7:40's	14	14	17	1370
5:40's	24	14	17	950
NW4 SE4	4	14	13	250
				29807

CONDITIONAL.

(If not Advertised)

NW4	2	14	11.....	1160

[Endorsed in pencil:] Exhibit used in case Griswold vs. Cobban. Filed and entered August 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

WARRANTY DEED.

(Allen Dodd to R. M. Cobban.)

This indenture, made this sixteenth day of November, A. D., one thousand eight hundred and ninety-nine, between Allen Dodd, an unmarried man of Bonner, Missoula County, State of Montana, party of the first part; and R. M. Cobban, of Missoula, Missoula County, State of Montana, the party of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of five hundred dollars ($500.00) lawful money of the United States of America, to him in hand paid by said party of the second part, the receipt whereof is hereby acknowledged, does by these presents grant, bargain, sell, convey, warrant and confirm unto the said party of the second part and to his heirs and assigns forever, the hereinafter described real estate, situated in the County of Deer Lodge, and State of Montana, to wit: Lot Lots one (1) and two (2) and the east one-half (½) of the southwest one-fourth (¼) of section thirty (30), township fifteen (15) north, range thirteen (13) west, consisting of one hundred sixty (160) acres, more or less, all in said Deer Lodge County, State of Montana.

(50 cts. I. R. Stamps canceled.)

Together with all and singular the hereinbefore described premises, together with all tenements, heredita-

ments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest right of dower and right of homestead, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in or to said premises, and every part and parcel thereof, with the appurtenances thereto belonging. To have and to hold, all and singular, the above mentioned and described premises unto the said party of the second part and to his heirs and assigns forever.

And the said party of the first part, and his heirs, do hereby covenant that they will forever warrant and defend all right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said party of the second part, his heirs and assigns, against the acts and deeds of the said party of the first part and all and every person and persons whomsoever, lawfully claiming or to claim the same.

In witness whereof the said party of the first part has hereunto set his hand and seal the day and year first hereinbefore written.

ALLEN DODD. [Seal]
_____, [Seal]
_____, [Seal]
_____, [Seal]

Signed, sealed and delivered in the presence of:

L. W. HEATH.
_____.

State of Montana,
County of Lewis & Clarke. } ss.

On this sixteenth day of November, A. D. one thousand eight hundred and ninety-nine, before me the undersigned, L. W. Heath, a notary public in and for said County and State, personally appeared Allen Dodd, an unmarried man, whose name is subscribed to the foregoing instrument as party thereto, and personally known to me to be the person described in and who executed the said foregoing instrument as party thereto and who acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first hereinbefore written.

[Seal] L. W. HEATH,

Notary Public in and for Lewis and Clarke County.

My commission as Notary Public expires April 4th, 1902.

State of Montana,
County of Deer Lodge. } ss.

I hereby certify that the within instrument was filed in my office on the 6th day of December, A. D. 1899, at 35 minutes past 2 o'clock P. M., and is recorded on page 608 of Book 20, Deed Records of Deer Lodge County, State of Montana.

[County Seal] M. MARTIN,
County Recorder.
By G. M. Johnston,
Deputy.

Fees, $2.00.

[Endorsed]: Warranty Deed. Allen Dodd to R. M. Cobban. Dated November 10th, 1899. Filed and entered August 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

WARRANTY DEED.

(D. E. Watson and Harriet Watson to R. M. Cobban.)

This indenture, made the 10th day of October, in the year of our Lord, one thousand eight hundred and ninety-nine, between Dock E. Watson and Harriet Watson, of Clearwater, Deer Lodge County, Montana, parties of the firs part, and R. M. Cobban, of Missoula, Montana, the pary of the second part, witnesseth: That the said partiesof the first part, for and in consideration of the sum of welve hundred ($1200) dollars, lawful money of the United States of America, to them in hand paid by said pary of the second part, the receipt whereof is hereby acknowledged, do —— by these presents grant, bargain, sell convey, and confirm unto the said party of the second part, and to his heirs and assigns forever, all the real property, situated in Deer Lodge County, State of Montana, described as follows: The north half (½) of of the southeast quarter (¼), S. E. quarter (¼), southwest quarter (¼), and southeast quarter (¼) of the northwest quarter (¼) of section twelve (12), township fourteen (14) north, of range fourteen west; also the west half of the southwest quarter (¼), the north-

east quarter (1/2) of southwest quarter (1/4) and southwest quarter (1/4) of northwest quarter (1/4) of section two (2), township fifteen (15) north, range fourteen (14) west.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder or remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, dower and right of dower property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to said premises, and every part and parcel thereof, with the appurtenances. To have and to hold, all and singular, the above-mentioned and described premises, together with the appurtenances unto the said party of the second part and to his heirs and assigns forever.

And the said parties of the first part, and their heirs, do hereby covenant that they will forever warrant and defend their right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said party of the second part, his heirs and assigns, against the acts and deeds of the said parties of the first part and all and every person and persons whomsoever, lawfully claiming or to claim the same.

($150 U. S. stamps cancelled.)

In witness whereof the said parties of the first part have hereunto set their hands and seals the day and year before written.

DOCK E. WATSON. [Seal]

HARRIET WATSON. [Seal]

_____. [Seal]

_____. [Seal]

Signed, sealed and delivered in the presence of:

_____

_____

State of Montana, }
County of Missoula. } ss.

On this 20th day of October, in the year one thousand eight hundred and ninety-nine, before me, Wallace P. Smith, a notary public in and for the county and State aforesaid, personally appeared Dock E. Watson and Harriet Watson, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal the day and year first above written.

[Seal] WALLACE P. SMITH,

Notary Public in and for Missoula County, Montana.

[Endorsed]: Warranty Deed. Dock E. Watson and Harriet Watson to R. M. Cobban. Dated _____, 189____.

Recorded at the request of ———, October 25th, 1899, at 30 minutes past 9 o'clock A. M., in book 20 of Deeds, page 586.

M. MARTIN,
County Recorder.

$2.50 pd.

R. M. Cobban.

Filed and entered August 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

WARRANTY DEED.

(Marion B. Watson et. ux. to R. M. Cobban.)

This indenture made this 10th day of October, A. D. one thousand eight hundred and ninety-nine, between Marion B. Watson and Katie Watson, husband and wife, of Clearwater, Deer Lodge County, Montana, parties of the first part; and R. M. Cobban, of Missoula, Montana, the party of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of one thousand dollars ($1000.00), lawful money of the United States of America, to them in hand paid by said party of the second part, the receipt whereof is hereby acknowledged, do —— by these presents grant, bargain, sell, convey, warrant and confirm unto the said party of the second part and to his heirs and assigns forever, the hereinafter described real estate, situated in the County of Deer Lodge and State of Montana, to-wit: The northeast quarter of section twelve (12), in township fourteen (14) north of range fourteen (14) west, Montana Meridian.

($1.10 I. R. Stamps cancelled.)

Together with all and singular the hereinbefore described premises, together with all tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, right of dower and right of homestead, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to said premises, and every part and parcel thereof, with the appurtenances thereto belonging. To have and to hold, all and singular, the above mentioned and described premises unto the said party of the second part and to his heirs and assigns forever.

And the said parties of the first part, and their heirs, do hereby covenant that they will forever warrant and defend all right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said party of the second part, his heirs and assigns, against the acts and deeds of the said parties of the first part and all and every person and persons whomsoever, lawfully claiming or to claim the same.

In witness whereof the said parties oft he first part have hereunto set their hands and seals the day and year first hereinbefore written.

MARION B. WATSON. [Seal]

KATIE WATSON. [Seal]

_____. [Seal]

_____. [Seal]

Signed, sealed and delivered in the presence of:

_____.

_____.

State of Montana, } ss.
County of Missoula. }

On this tenth day of October, in the year one thousand eight hundred and ninety-nine, before me, Dan. H. Ross, a notary public in and for the county and State aforesaid, personally appeared Marion B. Watson and Kate Watson, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal, the day and year in this certificate first above written.

[Seal] DAN. H. ROSS,

Notary Public in and for Missoula County, State of Montana.

[Endorsed]: Warranty Deed. Marion B. Watson et ux. to R. M. Cobban. Dated October 10, 1899.

State of Montana,
County of Deer Lodge. } ss.

Filed for record this 14th day of October, A. D. 1899, at 10 o'clock A. M., and recorded in Book 20 of Deeds, Page 582 of the Records of Deer Lodge County, State of ———.

[County Seal] M. MARTIN,
County Recorder.

Fees $2.00.

Return to R. M. Cobban, Missoula.

Filed and entered August 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

WARRANTY DEED.

(Marion B. Watson and Katie Watson to R. M. Cobban.)

This indenture made this 28th day of September, A. D. one thousand eight hundred and ninety-nine, between Marion B. Watson and Katie Watson, husband and wife, of Bonner, Montana, parties of the first part, R. M. Cobban, of Missoula, Montana, the party of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of six hundred 0/100 dollars ($600.00), lawful money of the United States of America, to them in hand paid by said party of the second part, the receipt whereof is hereby ac-

knowledged, do —— by these presents grant, bargain, sell, convey, warrant and confirm unto the said party of the second part and to his heirs and assigns forever, the hereinafter described real estate, situated in the county of Deer Lodge and State of Montana, to wit: The south-east quarter of section two (2), in township fifteen (15) north, range fourteen (14) west.

Together with all and singular the hereinbefore described premises, together with all tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, right of dower and right of homestead, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to said premises, and every part and parcel thereof, with the appurtenances thereto belonging. To have and to hold, all and singular, the above mentioned and described premises unto the said party of the second part and to his heirs and assigns forever.

And the said parties of the first part, and their heirs, do hereby covenant that they will forever warrant and defend all right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said party of the second part, his heirs and assigns, against the acts and deeds of the said parties of the first part and all and every person and persons whomsoever, lawfully claiming or to claim the same.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first hereinbefore written.

MARION B. WATSON. [Seal]
KATIE WATSON. [Seal]
———————. [Seal]
———————. [Seal]

Signed, sealed and delivered in the presence of:

F. L. REECE.
ALLIE ANDERSON.

($1.00 I. R. Stamps canceled.)

State of Montana,
County of Lewis & Clarke. } ss.

On this 28th day of September, ——— hundred and —— nine, before me, F. L. Reece, a notary public in and for said county of Lewis & Clarke, State of Montana, personally appeared Marion B. Watson and Katie Watson his wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[Seal] F. L. REECE,
Notary Public in and for Lewis and Clarke County, State of Montana.

[Endorsed]: Warranty Deed. Marion B. Watson and Katie Watson to R. M. Cobban. Dated Sept. 28th, 1899.

State of Montana,
County of Deer Lodge. } ss.

Filed for record this 10th day of October, A. D. 1899, at 11:34 o'clock A. M., and recorded in Book 20, of Deeds, page 579 of the Records of Deer Lodge County, State of Montana.

[County Seal] M. MARTIN,
County Recorder.

Fees $2.00.

Return to R. M. Cobban.

Filed and entered August 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

WARRANTY DEED.

(Edward Dodd and Cora Dodd to R. M. Cobban.)

This indenture, made this 10th day of October, A. D. one thousand eight hundred and ninety-nine, between Edward Dodd and Cora Dodd, husband and wife, of Bonner, Montana, parties of the first part, and R. M. Cobban, of Missoula, Montana, the party of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of two thousand dollars ($2,000), lawful money of the United States of America, to them in hand paid by said party of the second part, the receipt whereof is hereby acknowledged, do —— by these presents grant, bargain, sell, convey, warrant and confirm unto the said party of the second part and to his heirs and assigns forever, the herein-

after described real estate, situated in the county of Deer Lodge, and State of Montana, to wit: The northwest quarter of section eight and lots three (3) and four (4) and the east half of the southwest quarter of section eighteen, all in township fourteen (14) north, range thirteen (13) west, Montana Meridian.

($2.00 I. R. Stamps canceled.)

Together with all and singular the hereinbefore described premises, together with all tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, right of dower and right of homestead, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to said premises, and every part and parcel thereof, with the appurtenances thereto belonging. To have and to hold, all and singular, the above mentioned and described premises unto the said party of the second part and to his heirs and assigns forever.

And the said parties of the first part, and their heirs, do hereby covenant that they will forever warrant and defend all right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said party of the second part, his heirs and assigns, against the acts and deeds of the said parties of the first part and all and every person and persons whomsoever, lawfully claiming or to claim the same.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first hereinbefore written.

EDWARD DODD. [Seal]
CORA DODD. [Seal]
_____. [Seal]
_____. [Seal]

Signed, sealed and delivered in the presence of:

_____.
_____.

State of Montana,
County of Missoula. } ss.

On this tenth day of October, 1899, before me Dan H. Ross, a notary public in and for said county of Missoula, State of Montana, personally appeared Edward Dodd and Cora Dodd, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[Seal] DAN. H. ROSS,
Notary Public in and for Missoula County, State of Montana.

[Endorsed]: Warranty Deed. Edward Dodd and Cora Dodd to R. M. Cobban. Dated Oct. 10th, 1899.

State of Montana,
County of Deer Lodge. } ss.

Filed for record this 19th day of October, A. D. 1899, at 3:01 o'clock P. M., and recorded in Book 20, of Deeds, page 585 of the Records of Deer Lodge County, State of Montana.

[County Seal] M. MARTIN,
County Recorder.

Fees $2.00.

Return to R. M. Cobban.

Filed and entered August 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 201.

Rec'd from C. L. Griswold $35.00 to apply on loan.

Helena, Aug. 2d, 1899.

LIZZIE WELLS.

[Endorsed]: Dfdts. Exhibit 201. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 204.

Rec'd from C. L. Griswold, on account of loan on land, $339.10, three hundred and thirty-nine and 10/100 dollars.

Helena, Aug. 2nd, 1899.

JOHN GILLIS.

[Endorsed]: Dft's Exhibit 204. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 205.

Rec'd Missoula, July 16th, 1899, from C. L. Griswold, thirty-five dollars to apply on loan.

MRS. E. M. GAGNON.

[Endorsed]: Deft.'s Exhibit 205. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 206.

Helena, Montana, Aug. 1st, 1899.

Received of R. M. Cobban, acct. Gillis and Cloutier claims for land office, eight hundred and forty dollars ($840.00).

C. L. GRISWOLD.

[Endorsed]: Defendant's Exhibit 206. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 298.

W A. CLARK & BROTHER, BANKERS. No. 122473

$19957.

Butte, Montana, Feb. 12, 1900.

Pay to the order of R. M. Cobban $19957.50, Nineteen Thousand nine hundred fifty-seven 50/100 dollars.

W. A. CLARK & BROTHER.

To First National Bank, New York City.

[Endorsed on back]: R. M. Cobban.

[Endorsed on back]: Pay Natl. Park Bank, New York City, or Order. First Natl. Bank, Missoula, Montana, John M. Keith, Cashier.

[Endorsed on back]: Recd. Payment Through New York Clearing-House, Feb. 17, 1900. The Natl. Park Bank of New York.

[Endorsed]: Dfts. Exhibit 298. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 299.

W. A. CLARK & BROTHER, BANKERS. No. 124926

$13305

Butte, Montana, April 30, 1900.

Pay to the order of R. M. Cobban $13305.00, Thirteen thousand three hundred five 0/100 dollars.

W. A. CLARK & BROTHER.

To First National Bank, New York City.

[Endorsed on back]: R. M. Cobban.

[Endorsed on back]: Pay to the order of any Bank, Banker, or Trust Co. First Natl. Bank of Butte, Montana, E. B. Weirick, Cashier.

[Endorsed on back]: Received Payment Through New York Clearing House, May 4, 1900. Seventh Natl. Bank of New York City.

[Endorsed on back]: Endorsement correct. Seventh National Bank of New York.

[Endorsed]: Dfts. Exhibit 299. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 300.

July 31st, 1899.

A. H. Wethey, Esq., Butte, Montana.

My Dear Sir: I send you enclosed herewith copy of a letter which I have just written to Mr. McLaughlin with reference to the land examinations made by William Sparks. This letter has been written after a careful examination of the abstracts of title presented by Mr. Cobban, and after he has exhibited to me a deed conveying all of the land mentioned, and the letter has been written to guide Mr. McLaughlin in his payments of money for the land. The minor complications of payments of money to the various banks and individuals in whom title now rests will not give much trouble and the whole of the land can be transferred within a day or two.

I will take up the communications received from Mr. F. A. Hyde either to-day or to-morrow, and will make you a written report on the same.

Yours very truly,

W. M. BICKFORD.

Dictated.

July 31st, 1899.

Hon. H. W. McLaughlin, Missoula, Montana.

My Dear Sir: Referring to your letter of July 23d, addressed to Mr. Wethey, and the memoranda attached thereto concerning the land upon the Blackfoot, I have to advise you with reference to the same as follows: I have examined the abstracts of title presented by Mr. Cobban.

1. South half of the south half, section 18, township 16 north, range 15 W. (Timber only.) With reference to the above tract of land it is to be observed that the patent has not yet been recorded, but that final receipt has issued, and upon filing the certificate of the receiver of the land office, and the payment of taxes amounting to $30.55, and with a deed from Mr. Cobban to W. A. Clark, it would be safe to pay the amount of money due on the purchase of the land.

2. South half of the southwest quarter, west half of the southeast quarter, section 8, township 15 north, range 14 W. Final receipt has been lost. Mr. Cobban holds the register's certificate of the issuance of the final receipt, and this should be recorded, and an affidavit of the loss of final receipt should be delivered with the papers, and upon the execution of a deed and delivery of the same to

W. A. Clark, payment may be made for the timber upon this land.

3. Southeast quarter of section 14, township 15 north, range 15 W. The title to the above tract is correct, as shown by the abstracts and upon being executed and delivered by Mr. Cobban payment may be made.

4. Lot 2, and the southwest quarter of the northeast quarter, and west half of the southeast quarter, section 6, township 15 north, range 13 W. The abstract of title to the above land does not show a deed yet recorded to Mr. Cobban, but I am informed by Mr. Cobban that this deed has been executed and is in the hands of the Bank ready for delivery to him upon the payment of certain amounts of money due to the Bank or to some other person, and upon delivery of this deed together with the deed from Mr. Cobban to Mr. Clark, the money may be paid for the land.

5. West half of the southwest quarter, west half of the northwest quarter section 26, township 14 north, range 14 W. Investigation of the abstract of title shows that there is a mortgage given to Henry Hammond, and that the First National Bank of Missoula has commenced an action in attachment against the owner of the property and has attached the land above mentioned. An agreement was exhibited by Cobban showing that for the sum of $800.00 the First National Bank would undertake to release the Hammond mortgage, pay the costs of the attachment suit, and all taxes due up to the year 1899. Take a deed from Cobban, take deed from owner to Cobban, see that the money is paid to the First National

Bank, and the balance due for this particular tract of land can then be paid to Mr. Cobban with safety. The above land is shown by the abstract to be owned by James Osborne.

6. Northeast quarter of the southwest quarter, southeast quarter of the northwest quarter, southwest quarter of the northeast quarter, northwest quarter of the southeast quarter, section 26, township 14 north, range 14 W. The abstract of title to the above described land shows that the title is in one Labberty. Deeds have already been executed from Labberty to Hughes and from Hughes to Cobban and these deeds are now in the Western Montana Bank ready for delivery upon the payment of sums of money due to the various parties mentioned. When these deeds have been delivered and the deed from Cobban has been signed, you would be safe in paying the amount due for this land.

7. North half of the northwest quarter, north half of the northeast quarter, section 32, township 13 north, range 15 W. The title to the above-described land is shown by the abstract of title to be in Alice M. Cobban and upon receipt of a deed from Alice M. Cobban payment can be made for the land described.

8. South half of the northeast quarter and the northeast quarter of the southeast quarter, section 32, township 13 north, range 15 W. The abstract of title shows that the land is owned by R. M. Cobban and upon a deed being executed therefor payment may be made.

9. Northwest quarter of the southwest quarter, section 32, township 13 north, range 15 W. Abstract of

title shows that the same is owned by Mr. Cobban and that upon receipt of a deed from him payment may be made.

Generally speaking, it may be said that the deed which was exhibited to us by R. M. Cobban on Sunday was sufficient to cover the land mentioned above in all of the paragraphs numbered from 1 to 9, inclusive, and that nothing farther need be done except the recording of the deed from Cobban and wife with reference to the land mentioned in paragraphs 3, 7, 8 and 9, because the deed from R. M. Cobban and his wife, Alice M. Cobban, would convey to the grantee named therein full title to the land, but that care should be taken to see that all of the requirements mentioned above are complied with with reference to paragraphs 1, 2, 4, 5 and 6, and that when the directions with reference to the last-named paragraphs are complied with payment may then be made for the land described in said paragraphs.

Yours very truly,

Dictated.

[Endorsed]: Dfts. Exhibit 300. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 301.

WALTER M. BICKFORD,

Lawyer,

Rooms 10-11, Silver Bow Block,

Butte, Montana.

September 18th, 1899.

A. H. Wethey, Esq., Butte, Montana.

Dear Sir: I have made an examination of the abstracts of title to the various tracts of land submitted by R. M. Cobban, as well as a deed executed by Cobban and wife to W. A. Clark, and find that the abstracts of title are correct with some few exceptions, and these exceptions are cases where the deeds are still left in the Bank to be delivered to Cobban upon the payment of certain amounts of money before the delivery of the deeds. The land which has already been transferred is shown by the records to contain 10,475,000 feet of timber, and the deeds to lands which I have examined are shown to contain by the estimates 29,525,000 feet, making a total of 50,000,000 feet of timber on the lands conveyed.

Before paying the total amount to Mr. Cobban, I have asked Mr. McLaughlin to see that the amount due on the deeds now in bank are fully paid to the bank, and that the deeds from Cobban to Clark are delivered to him (McLaughlin) prior to the final payment being made. It seems that a part of this money at least must be paid to Mr. Cobban to enable him to obtain possession of the deeds now in the bank.

The lands mentioned in the deeds from Cobban to Mr. Clark are described as follows:

The southeast quarter of the northeast quarter, the east half of the southeast quarter, the northwest quarter of the southeast quarter, and the southwest quarter of section 10, township 14 north, range 13 west; the east half of the southwest quarter and the west half of the southeast quarter of section 30 in township 13 north of range 15 west, containing 160 acres, together with all water rights thereto belonging, the east half of the southeast quarter, east half of the northeast quarter of section 22 in township 15 north, of range 15 west; containing 160 acres, Missoula County, Montana; the west half of the northwest quarter of section 20 in township 16 north, of range 15 west, containing 80 acres; the northeast quarter of section 8, containing 160 acres, and the east half of the southeast quarter, the northwest quarter of the southeast quarter of section 6, containing 120 acres, all in township 14 north, range 16 west; the southeast quarter of section 10 in township 14 north, of range 16 west, containing 160 acres; the northwest quarter of section 8 in township 14 north, of range 16 west, containing 160 acres; the northeast quarter of section 28 in township 13 north, of range 16 west; the northwest quarter of section 12 in township 13 north, of range 16 west, containing 160 acres; the east half of the southeast quarter, the southwest quarter of the southeast quarter and the southeast quarter of the southwest quarter of section 20 in township 13 north, of range 15 west, containing 160 acres; the east half of the northeast quarter, and the east half of the southeast quar-

ter of section 30, in township 13 north, of range 15 west; the southeast quarter of section 2 in township 13 north, of range 16 west, containing 160 acres; the south half of the southwest quarter, the northeast quarter of the southwest quarter, southwest quarter of the southeast quarter of section 2 in township 13 north, of range 15 west, containing 160 acres; the south half of the southwest quarter and the south half of the southeast quarter of section 26 in township 15 north of range 15 west; and the south half of the southwest quarter and the south half of the southeast quarter of section 14, township 15 north, of range 12 west.

I would recommend that you send the balance of the $50,000.00 to Mr. McLaughlin asking him to pay the money to Cobban as he (Cobban) completes the title to the land and supplies the necessary information with reference to the completion of title in Mr. Clark. I have explained to Mr. McLaughlin fully the requirements with reference to this matter, and he can carry out the instructions with reference to the small quantity of land mentioned in the deeds now in the bank and with reference to the filing and recording of the deeds from Cobban to Clark, so that there may be no danger of mistake or overpayment, or payment prior to the perfecting of title in Mr. Clark.

As this will complete the transaction with Mr. Cobban, it is essential that we should be sure that no over payment is made, and I have had this in mind in giving my instructions to Mr. McLaughlin.

I am assured by those who are best informed with reference to the purchases made in this section of the country that the timber will over-run the estimates which have been made, and that there is no danger of our receiving less than we have paid for.

Yours very truly,
W. M. BICKFORD.

Dictated.

[Endorsed]: Dfts. Exhibit 301. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 302.

Helena, Mont., November 16th, 1899.

Mr. A. H. Wethey, Secy., Butte, Montana.

Dear Sir: I send inclosed with this a list of timber lands which I have received from Mr. McLaughlin, embracing tracts of land in both Missoula and Deer Lodge Counties.

I have examined the abstracts of title to these lands, made comparisons with the list enclosed, and find that the lands herein mentioned have been conveyed to Mr. Cobban, and that Mr. Cobban and his wife have executed a proper deed of conveyance, conveying all of the lands herein described to Mr. W. A. Clark, with the exception of the two tracts of land which stand in the name of L. A. Wells and Lizzie Wells, and these tracts have been conveyed, as well as the rest; but there are certain mortgages which are apparently unsatisfied upon the tracts

of land described, and payment for this land should not be made until such a time as Mr. Cobban satisfies you that the mortgages have been paid, and provides a satisfactory abstract of title.

I may say by the way of explanation that the papers which he has, show the title to the land to be in him, and the notes to secure which the mortgage was given being in his possession is prima facie evidence that the mortgage has been paid; but he has not yet had an abstract of title prepared, so as to cover this particular tract of land in the shape of an abstract of title.

I have no doubt the title is all right, but it is not in shape to pass upon.

Mr. Cobban also furnishes general certificates from the county clerk and recorder of Missoula County, and from the clerk of the Court of the different districts showing that no judgments have been entered against him since the prior conveyance to Mr. Clark, and the general certificates may be taken as satisfactory concerning the whole tract of land described.

I shall hand this letter to Mr. Cobban to take to you, with the other papers, and trust that everything may be found satisfactory.

Very truly yours,

W. M. BICKFORD.

(Enc.)

[Endorsed]: Defts. Exhibit 302. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 303.

BIG BLACKFOOT MILLING CO.

Bonner, Montana, Aug. 10, 1899.

Big Blackfoot Milling Co., Bonner, Montana.

Gentlemen: Please honor Col. Marshall's requisition for $450.00, amount to be advanced D. Wells, of Ovando, Montana, to prove up on his timber claim in 15 N., 12 W. Col. Marshall will take mortgage security for money advanced Mr. Wells until such time as I can examine the land and make an estimate of the timber thereon, at which time we will probably purchase the claim.

Yours truly,

FRANK VOGEL,

Timber Inspector.

[Endorsed]: Dfts. Exhibit 303. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 304.

BIG BLACKFOOT MILLING CO.

Bonner, Montana, Nov. 14, 1899.

Big Blackfoot Milling Co., Bonner, Montana.

Dear Sirs: Please honor requisition of Marshall & Stiff for $700.00, amount necessary to pay for timber claims purchased from L. A. Wells and wife. We advanced money to these parties to prove up with and should they sell to us for offer made by me we will cancel the mortgages and pay them this balance.

Also please honor their requisition for $100.00, equity in the N.E. 1/4 of section 6, 15, 25, at present owned by M. M. Co. This is the claim on which we advanced $400.00 to Mrs. Dorothy Skinner for proving up.

Mr. and Mrs. Wells may not accept my offer and in that event no requisition will be made.

Yours truly,
FRANK VOGEL,
Timber Inspector.

[Endorsed]: Defts. Exhibit 304. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 305.

THE FIRST NATIONAL BANK OF MISSOULA. MONTANA.

No. 70.

Pay to the order of R. M. Cobban, $2000.00, Two Thousand Dollars.

H. W. McLAUGHLIN.

Missoula, Montana.
July 28, 1899.

[Endorsed on back]: R. M. Cobban. R. M. Cobban.

[Endorsed on face]: First National Bank. Paid July 28, 1899. Missoula, Montana.

[Endorsed]: Defts. Exhibit 305. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 306.

THE FIRST NATIONAL BANK OF MISSOULA, MONTANA.

No. 80.

Pay to the order of R. M. Cobban, $1500.00, Fifteen Hundred Dollars.

H. W. McLAUGHLIN.

Missoula, Montana.
July 29, 1899.

[Endorsed on back]: R. M. Cobban.

[Endorsed on face]: First National Bank. Paid July 31, 1899. Missoula, Montana.

[Endorsed]: Defts. Exhibit 306. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 307.

THE FIRST NATIONAL BANK OF MISSOULA, MONTANA.

No. 81.

Pay to the order of R. M. Cobban, $9593.75, Nine Thousand five hundred and ninety-three 75/100 Dollars.

H. W. McLAUGHLIN.

Missoula, Montana.
July 31, 1899.

[Endorsed on back]: R. M. Cobban.

[Endorsed on face]: First National Bank. Paid July 31, 1899. Missoula, Montana.

[Endorsed]: Defts. Exhibit 307. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 308.

THE FIRST NATIONAL BANK OF MISSOULA, MONTANA.

No. 215.

Pay to the order of R. M. Cobban, $4000.00, Four Thousand Dollars.

H. W. McLAUGHLIN.

Missoula, Montana.
Sept. 13th, 1899.

[Endorsed on back]: R. M. Cobban.

[Endorsed on face]: First National Bank. Paid Sept. 14, 1899. Missoula, Montana.

[Endorsed]: Defts. Exhibit 308. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 309.

THE FIRST NATIONAL BANK OF MISSOULA, MONTANA.

No. 227.

Pay to the order of R. M. Cobban, $20,000.00, Twenty Thousand Dollars.

H. W. McLAUGHLIN.

Missoula, Montana.
Sept. 21, 1899.

[Endorsed on back]: R. M. Cobban.

[Endorsed on face]: First National Bank. Paid Sept. 21, 1899. Missoula, Montana.

[Endorsed]: Defts. Exhibit 309. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 310.

THE FIRST NATIONAL BANK OF MISSOULA, MONTANA.

No. 228.

Pay to the order of R. M. Cobban, $12,906.25, Twelve Thousand Nine Hundred and Six 25/100 Dollars.

H. W. McLAUGHLIN.

Missoula, Montana.
Sept 21, 1899.

[Endorsed on back]: R. M. Cobban.

[Endorsed on face]: First National Bank. Paid Sept. 21, 1899. Missoula, Montana.

[Endorsed]: Defts. Exhibit 310. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 314.

MORTGAGE DEED.

This indenture, made the 13th day of October in the year of our Lord one thousand eight hundred and ninety-nine between Lizzie A. Wells and Lewis A. Wells, her husband, of Ovandon, Deer Lodge Co., Montana, and Big Blackfoot Milling Company, a Corporation, the party of the second part,

Witnesseth, That the said parties of the first part for and in consideration of the sum of four hundred and fifty dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do Grant, Bargain, Sell and Convey unto the said party of the second part, and to its successors and assigns forever, all those certain lots, pieces or parcels of land situate, lying and being in the County of Deer Lodge, State of Montana, and particularly described as follows, to wit:

The west half of the southeast quarter, and the east half of the southwest quarter of Section Eight in Town-

ship No. 14 North of Range 13 west, Montana Principal Meridian.

This Grant is intended as a Mortgage to secure the payment of a certain promissory note of even date herewith, executed and delivered by the said parties of the first part to the said party of the second part which said note is more particularly described as follows, to wit:

$450.00 Missoula, Mont., October 13th, 1899.

Twelve months after date, for value received, we promise to pay to the order of Big Blackfoot Milling Company, Four Hundred and Fifty Dollars, with interest thereon at the rate of one per cent per month from date until paid. Payable at Bonner, Mont. And in the event collection hereof is enforced by legal proceedings we agree to pay a reasonable attorney's fee as part of the costs of said proceeding.

(Signed) LIZZIE A. WELLS.
LEWIS A. WELLS.

(I. R. stamp 10 c.)

And these presents shall be void if such payment be made. But in case default shall be made in the payment of the said principal sum..of money, or any part thereof, as provided in said note...., or if the interest that may grow due thereon, or any part thereof, shall be due and unpaid for the space of .... days after the same should have been paid, according to the terms of said promissory note ...., then and from thenceforth, it shall be optional with the said party of

the second part, its successors, executors, administrators or assigns, to consider the whole of said principal sum..expressed in said note....as immediately due and payable, although the time expressed in said note..for the payment thereof shall not have arrived; and immediately to enter into and upon all and singular the premises hereby granted, or intended so to be, and to sell and dispose of the same, and all benefit and equity of redemption of the said parties of the first part, their heirs, executors, administrators or assigns, according to law, and out of the money arising from such sale to retain the principal and interest which shall then be due on the said promissory note..together with the costs and charges of foreclosure suit, including a reasonable sum as counsel fee, to be fixed and allowed by the court and also the amounts of all such payments of taxes, incumbrances or insurance as may have been made by said party—of the second part, its successors, executors, administrators or assigns, by reason of the permission hereinafter allowed, rendering the overplus of the purchase money, if any there shall be unto the said parties of the first part, their heirs, executors, administrators or assigns. And the said parties of the first part do..hereby further covenant, promise and agree to and with the said party of the second part to pay and discharge, at maturity, all such taxes or assessments, liens or other incumbrances, now subsisting or hereafter to be laid or imposed upon said premises,.....or which may be in effect a prior

charge thereupon to these presents, during the continuance hereof, and in default thereof the said party of the second party may pay and discharge the same, and may at his option, keep fully insured against all risks by fire the buildings which are now or may be hereafter erected thereon, at the expense of the said parties of the first part, and the sums so paid shall be repayable in the same kind of money or currency in which the same may have been paid, and shall bear interest at the rate of one per cent per month until paid, and shall be considered as secured by these presents, and be a lien upon said premises, and shall be deducted from the proceeds of the sale thereof above mentioned, and interest as herein provided.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

LIZZIE A. WELLS. [Seal]
LEWIS A. WELLS. [Seal]
_____ [Seal]

Signed, sealed and delivered in the presence of

_____.
_____.

State of Montana, }
County of Missoula. } ss.

On this 13th day of October in the year 1899, before me, Henry C. Stiff, a Notary Public in and for said County, State of Montana, personally appeared Lizzie A. Wells and Lewis A. Wells, her husband, both person-

ally known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this the day and year in this certificate first above written.

[Seal] HENRY C. STIFF,

Notary Public in and for Missoula County, State of Montana.

[I. R. 10ct. Stamp Canceled.]

[Endorsed]: Dfts. Exhibit 314. H. N. Blake, Examiner. Mortgage. Lizzie A. Wells et con. to Big Blackfoot Milling Co. Dated October 13th, 1899. Recorded at the request of..... October 17th, A. D. 1899 at 15 minutes past 9 o'clock A. M., in Book T, of Mortgages, page 232. M. Martin, County Recorder. (Seal) Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy. Marshall & Stiff, Missoula.

Defendant's Exhibit No. 315.

This Indenture, Made the Ninth day of August, in the year of our Lord one thousand eight hundred and ninety-nine between Lewis A. Wells and Lizzie A. Wells of Deer Lodge County, Montana, parties of the first part, and Big Blackfoot Milling Company, a corporation under laws of Montana the party of the second part, witnesseth, That the said parties of the first part, for and in consideration of the sum of four hundred and fifty

0/100 Dollars lawful money of the United States of America to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, ha..granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said party of the second part, and to his heirs and assigns, forever, all those certain lots, pieces or parcels of land situate lying and being in the County of Deer Lodge, State of Montana, bounded and described as follows: East half of the northeast quarter and the East half of the Southeast quarter of Section Twenty-two, (22) Township fifteen (15) North, Range twelve (12) north of Montana Meridian containing One Hundred and Sixty (160) acres.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

This conveyance is intended as a Mortgage to secure the payment of a promissory note of even date herewith made and delivered by the said Lewis A. Wells which is of even date herewith for the sum of Four Hundred and fifty dollars due twelve months after date and bearing interest at the rate of ten per cent per annum from date until paid.

And these presents shall be void if such payment be made. But in case default be made in the payment of the principal or interest, as above provided then the part.. of the second part, executors, administrators and assigns, are hereby empowered to sell the premises

above described, with all and every of the appurtenances, or any part thereof, in the manner prescribed by law, and out of the money arising from such sale to retain the said principal and interest, together with the costs and charges of making such sale and a reasonable attorney's fee to be fixed and allowed by the Court, and the overplus, if any there be, shall be paid by the party making such sale, on demand, to the said part..of the first part, heirs or assigns.

In witness whereof, the said part..of the first part ha..hereunto set..hand and seal the day and year first above written.

LEWIS A. WELLS. [Seal]

LIZZIE A. WELLS. [Seal]

Signed, sealed and delivered in the presence of

_____.

State of Montana, }
County of Missoula. } ss.

On this ninth day of August, A. D. one thousand eight hundred and ninety-nine personally appeared before me Henry C. Stiff a Notary Public in and for Missoula County, State of Montana, Lewis A. Wells and Lizzie A. Wells, his wife, whose names are subscribed to the foregoing instrument, as parties thereto, personally known to me to be the same persons described in and who executed the said foregoing instrument as first part..thereto, and who each acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[Seal] HENRY C. STIFF,

Notary Public in and for Missoula Co., Montana.

[10 cts. I. R. Canceled.]

[Endorsed]: Compared. Indexed. Dfts. Exhibit 315. H. N. Blake, Examiner. Mortgage. Lewis A. Wells and wife to Big Blackfoot Milling Co. Dated ....., 189..... Recorded at the request of ....., October 17th, A. D. 1899, at 10 minutes past 9 o'clock A. M., in Book P of Mortgages, page 135. M. Martin. Marshall & Stiff. (Seal)

[Endorsed]: Filed and entered Aug. 28, 1902. Geo W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 316.

$8000. Butte, Montana, Sept. 28, 1899.

On demand after date, we or either of us promise to pay to the First National Bank of Butte, or order, the sum of eight thousand dollars, lawful money of the United States, for value received, payable at the First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date until paid. And in case of default in the payment of this note, principal or interest, at maturity, we agree to pay all costs and expenses of collecting same, or any part thereof,

including reasonable attorney fees to be allowed by the court before whom suit is brought.

R. M. COBBAN.
SAM'L DINSMORE.
ALICE M. COBBAN.

Interest payable ———.

No. 15217.

Due ———.

[Endorsed on face]: First Natl. Bank Paid Nov. 18, 1899. Cashier, Butte, Mont.

(Rev. stamps $1.60 canceled.)

[Endorsed]: Dfts. Exhibit 316. H. N. Blake, Examiner. Filed and Entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 317.

$5000. Butte, Montana, Nov. 23d, 1899.

On demand after date, I promise to pay to The First National Bank of Butte, or order, the sum of five thousand dollars, lawful money of the United States, for value received, payable at The First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date until paid. And in case of default in the payment of this note, principal or inter-

est at maturity, I agree to pay all costs and expenses of collecting same, or any part thereof, including reasonable attorney fees to be allowed by the court before whom suit is brought.

R. M. COBBAN.
SAM'L DINSMORE.
ALICE M. COBBAN.

$1.00 rev. stamps canceled.)

Interest payable ———.

No. 15363 N. Due demand.

[Endorsed on face]: First Natl. Bank. Paid Dec. 19, 1899. Cashier, Butte, Montana.

[Endorsed]: Dfts. Exhibit No. 317. H. N. Blake, Examiner. Filed and Entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 318.

$26000. Butte, Montana, Feby. 14, 1900.

Ninety days after date, we, or either of us, promise to pay to The First National Bank of Butte, or order, the sum of Twenty-six Thousand Dollars, lawful money of the United States, for value received, payable at The First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date until paid. And in case of default in the payment of

this note, principal or interest, at maturity, we agree to pay all costs and expenses of collecting same, or any part thereof, including reasonable attorney fees to be allowed by the Court before whom suit is brought.

R. M. COBBAN.
SAM'L DINSMORE.
ALICE M. COBBAN.

Interest payable ———.

No. 15599. Due May 15, 1900-C.

[Endorsed]: Paid June 18, 1900. First Nat'l Bank. Cashier. Butte, Montana.

[Endorsed]: Pd. Apl. 30, 1900. B/R. $5000.

[Endorsed]: Dfts. Exhibit 318. H. N. Blake, Examiner. Filed and Entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 319.

$5000.00. Butte, Montana, October, 17th, 1899.

On demand, after date, we, or either of us, promise to pay to The First National Bank of Butte, or order, the sum of Five Thousand 00/100 Dollars, lawful money of the United States, for value received, payable at The First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date until paid. And in case of default in the payment of this note, principal or interest, at maturity, we agree to pay all costs and expenses of collecting same, or

any part thereof, including reasonable attorney fees to be allowed by the Court before whom suit is brought.

R. M. COBBAN.
ALICE M. COBBAN.
SAM'L DINSMORE.

Interest payable ———.
No. 15272 B.
Due ———.

[Endorsed on face]: First Natl. Bank. Paid Nov. 18, 1899. Cashier, Butte, Mont.
$1.00 Rev. stamp canceled.

[Endorsed]: Dfts. Exhibit 319. H. N. Blake, Examiner. Filed and Entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 320.

$10600. Butte, Montana, July 7th, 1900.

Ninety days after date, we or either of us promise to pay to the First National Bank of Butte, or order, the sum of ten thousand six hundred dollars, lawful money of the United States, for value received, payable at the First National Bank of Butte, Montana, with interest at the rate of ten per cent per annum from date until paid. And in case of default in the payment of this note, principal or interest at maturity, we agree to pay all costs and expenses of collecting same, or any

part thereof, including reasonable attorney fees to be allowed by the Court before whom suit is brought.

R. M. COBBAN.
SAML. DINSMORE.

Interest payable, ———.
No. 16005 C.
Due Oct. 5. 1900.

[Endorsed on face]: Canceled.

[Endorsed]: Defts. Exhibit No. 320. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 321.

$3175.14. Butte, Montana, June 23d, 1899.

Six months after date, I or either of us, promise to pay to the First National Bank of Butte, or order, the sum of thirty-one hundred seventy-five and 14/100 dollars, lawful money of the United States, for value received, payable at the First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date until paid. And in case of default in the payment of this note, principal, or interest, at maturity, I agree to pay all costs and expenses of collecting same, or any part thereof, including reasonable attorney fees to be allowed by the Court before whom suit is brought.

R. M. COBBAN.

#14987.
Interest payable ———. Due Dec. 23/99.

[Endorsed]: First Nat. Bank. Rec'd. Paid, Feb. 14, 1900. Cashier, Butte, Montana.

(Rev. Stamps, 64 cents, canceled.)

[Endorsed]:

Pd. July 8th/99.	(Meitter) B/R.....	29.60
Pd. July 17/99.	Coppan Day E BR.....	101.
Pd. Aug. 16/99.	(Meitter) BR.....	69.35
Pd. Aug. 17/99.	(Meitter) BR.....	371.35
Pd. Aug. 17/99.	Cobban C. S. L. B/R....	92.
Pd. Sept. 15/99.	Dr. B/R.	103.
Pd. Oct. 16/99.	Dr. B/R.	104.
Pd. Nov. 18/99.	Dr. B/R.	1000.
Pd. Nov. 21/99.	Dr. B/R.	105.
Pd. Dec. 29/99.	Dr. B/R.	106.45
Pd. Jany. 16/00.	Dr. B/R.	107.

[Endorsed]: Dfts. Exhibit 321. H. N. Blake, Examiner. Filed and entered, Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 322.

$20,000 00/100.

Butte, Montana, December 2d, 1899.

On demand after date we or either of us, promise to pay to the First National Bank of Butte, or order, the sum of twenty thousand 00/100 dollars, lawful money of the United States, for value received, payable at the First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date

until paid. And in case of default in the payment of this note, principal, or interest, at maturity, we agree to pay all costs and expenses of collecting same, or any part thereof, including reasonable attorney fees to be allowed by the Court before whom suit is brought.

R. M. COBBAN.
SAML. DINSMORE.
ALICE M. COBBAN.

(Rev. stamps, $4.00, canceled.)

15,388. Due. Demand C.

[Endorsed]: Paid Feby. 14, 1900.

[Endorsed]: Dfts. Exhibit 322. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Pd. Dec. 18/99. B. R. 50 00

Pd. Jan. 31/00. B. R. 75 00

Defendant's Exhibit No. 323.

$1000. Butte, Montana, Feby. 14, 1900.

On demand after date, I promise to pay to the First National Bank of Butte, or order, the sum of one thousand dollars, lawful money of the United States, for value received, payable at the First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date until paid. And in case of default in the payment of this note, principal, or interest, at maturity, I agree to pay all costs and expenses of collecting same, or any part thereof, includ-

ing reasonable attorney fees to be allowed by the Court before whom suit is brought.

R. M. COBBAN.

#15,388. Due. Demand C.

Interest ———. Due, Demand.

[Endorsed]: First Natl. Bank. Paid Jul. 9, 1900. Cashier, Butte, Montana.

(Rev. Stamps, 20 cents, canceled.)

[Endorsed]:

Pd. Feby. 15/900.	B/R. C. C. D. Note.....	108.
Pd. May 16/900.	B/R.....	109.
Pd. April 16/00.	Bk. C. C. D. & E.....	110.
Pd. April 30/90.	Bk. J. Woodward Note..	325.
Pd. April 30/90.	Bk. K. Basskone, Note..	105.
Pd. May 17/900.	Bk. C. C. D. Co.....	111.
Pd. June 20/00.	Bk. C. C. D. Co.....	112.
Pd. July 9/900.	Bk. Bal....	20.
		1000
Interest		23

[Endorsed]: Dfts. Exhibit 323. H. N. Blake, Examiner. Filed and entered, Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 324.

$1500. Butte, Montana, July 6, 1899.

Sixty days after date we or either of us, promise to pay to the First National Bank of Butte, or order, the

sum of fifteen hundred dollars, lawful money of the United States, for value received, payable at the First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date until paid. And in case of default in the payment of this note, principal, or interest, at maturity, we agree to pay all costs and expenses of collecting same, or any part thereof, including reasonable attorney fees to be allowed by the Court before whom suit is brought.

R. M. COBBAN.

SAML. DINSMORE.

(Rev. Stamps, 30 cts., canceled.)

#14996. Due Sept. 5/99.

[Endorsed]: Paid First Nat'l Bank. Aug. 2, 1899. Cashier, Butte, Montana.

[Endorsed]: Dfts. Exhibit 324. H. N. Blake, Examiner. Filed and entered, Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 325.

$2812.53. Butte, Montana, Apl. 5, 1899.

On demand after date, I or either of us promise to pay to the First National Bank of Butte, or order, the sum of twenty-eight hundred twelve and 53/100 dollars, lawful money of the United States, for value received, payable at the First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date until paid. And in case of default in the payment

of this note, principal or interest, at maturity, I agree to pay all costs and expenses of collecting same, or any part thereof, including reasonable attorney fees to be allowed by the Court before whom suit is brought.

R. M. COBBAN.

Interest payable ———.

No. 14738B.

Due Demand.

[Endorsed on face]: First Nat'l Bank. Paid May 3, 1900. Cashier, Butte, Mont.

[Endorsed]:

Pd. May 17, 1899. Marshall Note, BR. ....580.
Pd. May 20, 1899. Collateral Acct. BR. ..435.
Pd. Aug. 18, 1899. Collateral Acct. BR. ..1000.
Pd. Oct. 16, 1899. Collateral Acct. BR. .. 285.
Pd. Jan. 3, 1900. Int. to 1/1/1900, BR....123.08
Pd. May 1, 1900. (3rd) B/R. 512.53
Pd. May 1, 1900. Int. 20.50
(Rev. Stamps, 58 cts., canceled.)

[Endorsed]: Dfts. Exhibit 325. H. N. Blake, Examiner. Filed and entered, Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 326.

$15,000.00. Missoula, Montana, February 21, 1900.

On or before two years after date, we, or either of us, promise to pay to the order of J. E. Gaylord, the sum of fifteen thousand (15,000) dollars, lawful money of the

United States, for value received; payable at the First National Bank of Butte, Montana, with interest at the rate of (8) per cent per annum from date until paid.

And in case of default of payment of this note, principal or interest, at maturity, we agree to pay all costs and expenses of collecting the same, or any part thereof, including a reasonable attorney's fee, to be fixed and allowed by the Court before whom suit is brought.

R. M. COBBAN.

SAML. DINSMORE.

Interest payable quarterly.

Secured by mortgage.

($8.00 U. S. Rev. canceled on mortgage.)

[Endorsed on back]: For value received pay A. J. Davis or order. J. E. Gaylord.

[Endorsed on face]: First National Bank. Paid Jan. 19, 1901. Cashier, Butte, Montana.

[Endorsed]: Dfts. Exhibit 326. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Pd. Aug. 1/900. Int. $600—We chg. interest on this note to date $493.33.

Defendant's Exhibit No. 327.

$15,000.00 Missoula, Montana, February 21, 1900.

Two years after date, we or either of us promise to pay to the order of J. E. Gaylord, the sum of fifteen thousand (15,000) dollars, lawful money of the United States, for

Value Received; payable at the First National Bank of Butte, Montana. With interest at the rate of (8) per cent. per annum from date until paid.

And in case of default of payment of this note, principal or interest, at maturity, we agree to pay all costs and expenses of collecting the same or any part thereof, including a reasonable attorney's fee, to be fixed and allowed by the Court before whom suit is brought.

R. M. COBBAN.
SAML. DINSMORE.

Interest payable quarterly.
Secured by mortgage. 175349.
($8.00 U. S. Rev. canceled on Mortgage.)
1390 Fairfield Ave., Bridgeport, Ct.

[Endorsed on back]: Paid Aug. 1st, 1900, Int. 600.

[Endorsed on face]: First National Bank, Paid Jan. 19, 1901, Cashier, Butte, Montana.

We chge. interest on this note from Aug. 21/900 to Feby. 21/900, $600.

[Endorsed]: Dfts. Exhibit 327. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 328.

$12,500.00 Butte, Montana, January 4th, 1900.

On demand after date, we or either of us promise to pay to the First National Bank of Butte, or order, the sum of twelve thousand five hundred dollars, lawful

money of the United States, for value received, payable at the First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date until paid. And in case of default in the payment of this note, principal or interest at maturity, we agree to pay all costs and expenses of collecting same, or any part thereof, including reasonable attorney fees to be allowed by the court before whom suit is brought.

R. M. COBBAN.
ALICE M. COBBAN.
SAML. DINSMORE.

($2.50 Rev. Stamps canceled.)

Interest payable.

No. 15194. Due, Dmnd.

[Endorsed on face]: Paid Feby. 14/900.

[Endorsed]: Dfts. Exhibit No. 328. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902, Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 330.

$5000. Butte, Montana, May, 11, 1900.

On demand, after date, we or either of us promise to pay to the First National Bank of Butte, or order, the sum of five thousand dollars, lawful money of the United States, for value received, payable at the First National Bank of Butte, Montana, with interest at the rate of one per cent per month from date until paid. And in case of

default in the payment of this note, principal or interest, at maturity, we agree to pay all costs and expenses of collecting same, or any part thereof, including reasonable attorney fees to be allowed by the court before whom suit is brought.

R. M. COBBAN.
SAML. DINSMORE.

Interest payable. ———.
No. 15813. C.
Due Demand.

[Endorsed on face]: First Natl. Bank. Paid June 18, 1900. Cashier, Butte, Mont.
(Rev. stamps 1.00 canceled.)

[Endorsed]: Dfts. Exhibit 330. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 329.

$10600. Butte, Montana, July 7, 1900.

Ninety days after date, we or either of us promise to pay to the First National Bank of Butte, or order, the sum of ten thousand six hundred dollars, lawful money of the United States, for value received, payable at the First National Bank of Butte, Montana, with interest at the rate of ten per cent per annum from date until paid. And in case of default in the payment of this note, principal or interest at maturity, we agree to pay all costs and expenses of collecting same, or any part thereof, in-

cluding reasonable attorney fees to be allowed by the court before whom suit is brought.

R. M. COBBAN.
ALICE M. COBBAN.
SAML. DINSMORE.

Interest payable, ———.
No. 16005. Due Oct. 5/00.

[Endorsed on face]: First Natl. Bank. Paid, Sept. 5, 1900, Cashier, Butte, Montana.

[Endorsed]: Dfts. Exhibit No. 329. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.
(Rev. Stamps, $2.12 canceled.)

[Endorsed]: Paid Aug. 30, 1900. Int. $156.05.

Defendant's Exhibit No. 331.

$2500.00 Missoula, Montana, August 29th, 1900.

Three months after date, for value received, we promise to pay to the order of the Cashier of the First National Bank of Missoula, twenty-five hundred dollars, at the First National Bank of Missoula, with interest at one per cent a month from date until paid.

Interest payable quarterly.

R. M. COBBAN.
ALICE M. COBBAN.

(Revenue stamp, 50 cts., canceled).
No. 9932. Due 11/29/1900.

[Endorsed across face]: Canceled.

[Endorsed]: Defts. Exhibit 331. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 332.

$2500.00 Missoula, Montana, July 11th, 1900.

Three months after date, for value received, we promise to pay to the order of the Cashier of the First National Bank of Missoula, twenty-five hundred dollars, at the First National Bank of Missoula, with interest at one per cent a month from date until paid.

Interest payable quarterly.

R. M. COBBAN.
SAML. DINSMORE.

(Rev. Stamp 50 cts. canceled.)
No. 9875. Due 10/11/1900.

[Endorsed across face]: Paid.

[Endorsed]: Dfts. Exhibit 332. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 333.

$2500.00 Missoula, Montana, May 28th, 1900.

On demand, after date, for value received, we promise to pay to the order of the Cashier of the First National Bank of Missoula, twenty-five hundred dollars, at the

First National Bank of Missoula, with interest at the rate of 12 per cent per annum from date until paid.

R. M. COBBAN.
COBBAN & DINSMORE.

(Revenue stamp 50 cts. canceled.)

No. 9830. Due, Demand.

[Endorsed across face]: Paid June 10, 1900, and canceled.

[Endorsed]: Defts. Exhibit 333. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 334.

$8000.00 Missoula, Montana, October 23d, 1899.

Thirty days after date, for value received, we promise to pay to the order of the Cashier of the First National Bank of Missoula, eight thousand dollars, at the First National Bank of Missoula, with interest at the rate of twelve per cent per annum from date until paid.

R. M. COBBAN,
ALICE M. COBBAN.
BONNER & PRICE.

No. 9557. Due No. 22/99.

[Endorsed across face]: Canceled.

[Endorsed]: Dfts. Exhibit 334. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

(10c. Rev. stamp canceled.)

Defendant's Exhibit No. 335.

$10,000.00 Missoula, Montana, September 5th, 1899.

On or before thirty days after date, for value received, we promise to pay to the order of the Cashier of the First National Bank of Missoula, ten thousand dollars, at the First National Bank of Missoula, with interest at the rate of twelve per cent per annum from date until paid.

R. M. COBBAN.
ALICE M. COBBAN.
BONNER and PRICE.
D. R. BECK.

(Revenue stamp $2.00 canceled).

No. 9513. Due, 10/5/99.

[Endorsed across face]: Canceled.

[Endorsed]: Defts. Exhibit 335. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 336.

$1471.15 Missoula, Montana, July 25th, 1898.

On demand, after date, for value received, we promise to pay to the order of the Cashier of the First National Bank of Missoula fourteen hundred seventy-one and 15/100 dollars, at the First National Bank of Missoula,

with interest at the rate of twelve per cent per annum from date until paid.

R. M. COBBAN.
ALICE M. COBBAN.

(Rev. Stamp, 30 cts., canceled.]
No. 9098. Due, Demand.

[Endorsed across face]: Canceled.

[Endorsed]:

$41.45 paid on within, Mattson, 12/17/98.
25.00 paid on within, Mattson, 1/6/99.
50.00 paid on within, Cobban, 4/8/99.
50.00 paid on within, Cobban, 4/29/99.
250.00 paid on within, Cobban, 7/31/99.
300.00 paid on within, Cobban, 9/21/99.
146.90 paid on within, Cobban, 12/7/99.
73.55 Int. paid, Mattson, 12/17 to 12/25/98.
50.00 Int. paid, Mattson, 6/10/99.
90.55 Int. paid, Mattson, 12/7/99 to 12/17/99.

[Endorsed]: Dfts. Exhibit 336. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 337.

$5000. Butte, Montana, Oct. 31, 1899.

On demand, after date, we or either of us promise to pay to the Silver Bow National Bank of Butte City, or order, Five Thousand Dollars, for value received, negotiable and payable without defalcation or discount at the

Silver Bow National Bank of Butte City, with interest at the rate of one per cent per month from date until paid.

R. M. COBBAN.

SAML. DINSMORE.

No. 4357.

Due—Demand.

(Rev. Stamps $1.00 Cancelled.)

[Endorsed]: Dfts. Exhibit 337. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 338.

$5248.00. Butte, Montana, Aug. 3, 1899.

Six months after date, without grace, for value received, we or either of us promise to pay to the State Savings Bank of Butte, Montana, or order, five thousand two hundred forty-eight dollars, negotiable and payable at the State Savings Bank of Butte, Montana, with 11 per cent interest per annum from date until paid, both before and after judgment, and a reasonable attorney's fees if suit be instituted on this note.

R. M. COBBAN.

S. V. KEMPER.

No. 1937. Due Feb. 3, 1900.

[Endorsed on face]: State Savings Bank. Paid, Dec. 16, 1899. Butte, Montana.

(Rev. Stamps, $1.06, canceled.)

[Endorsed]: Defts. Exhibit 338. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 339.

$2500.00. Butte, Montana, Nov. 10th, 1899.

On demand, after date, without grace, for value received, we or either of us promise to pay to the State Savings Bank of Butte, Montana, or order, twenty-five hundred dollars, negotiable and payable at the State Savings Bank of Butte, Montana, with one per cent interest per month from date until paid, both before and after judgment, and ——— per cent. Attorney's fees if suit be instituted on this note.

R. M. COBBAN.
SAML. DINSMORE.

No. 1955. Due, Demand.
(Rev. Stamp 50 cts. canceled.)

[Endorsed on face]: State Savings Bank. Paid. November 23, 1899. Butte, Montana.

[Endorsed]: Defts. Exhibit 339. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. By F. H. Drake, Deputy.

Defendant's Exhibit No. 340.

$5500.00. Chippewa Falls, Wis., Oct. 4th, 1899.

On or before one year after date I promise to pay to the order of James McKinnon, Five Thousand Five Hundred

0/100 Dollars, in gold coin at the First National Bank of Chippewa Falls, Wisconsin, with interest at seven per cent per annum until paid. Value received. Interest payable semi-annually.

R. M. COBBAN.

This note has been renewed July 14, 1900, for one year.

JAMES McKINNON.

(Rev. Stamps $1.10 Canceled.)

[Endorsed]: Defts. Exhibit 340. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 342.

$800.00. Missoula, Montana, April 29th, 1899.

On or before One Year after date, for value received, I promise to pay to the order of Joseph Boors Eight Hundred 00/100 Dollars, at Missoula, Montana, with interest at the rate of one per cent per month from date hereof until paid. Interest payable monthly.

Due ————, 189——.

[Endorsed on face]: Paid.

(Revenue Stamps 16 cts. cancelled.)

[Endorsed]: Dfts. Exhibit 342. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 341.

$2000.00/100. Missoula, Montana, April 4th, 1899.

On or before one year after date, for value received, we promise to pay to the order of S. C. F. Cobban Two Thousand Dollars at First Natl. Bank of Butte, Montana, with interest at the rate of one per cent per month from date hereof until paid. Interest payable monthly.

[Endorsed on face]: Paid in full July 24, 1899.

[End.] Apl. 4, '99. Pd. $60.00, being interest to July 4, 1899.

(Revenue Stamps 40 cts. Cancelled.)

[Endorsed]: Dfts. Exhibit 341. H. N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit No. 343.

$2000.00/100. Missoula, Montana, Oct. 27th, 1899.

Thirty days after date, for value received, I promise to pay to the order of Joseph Boors Two Thousand Dollars at office of Cobban & Dinsmore, Missoula, Montana, with interest at the rate of two per cent per month from date hereof until paid.

Interest payable ———.

[Endorsed on face]: Paid in full Nov. 28, 1899.

(Revenue Stamps 40 cts. Cancelled.)

[Endorsed]: Dfts. Exhibit 343. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

[Written in Margin]: Cobban Loan & Realty Co. Real Estate and Loans. Butte, Montana.

Defendant's Exhibit No. 348.

CHAUNCEY L. GRISWOLD, called, sworn, testifies as follows:

Q. Where is your residence?

A. My residence is in Missoula, Mont.

Q. What is your occupation?

A. I follow the timber and real estate business.

Q. On the 22d day of May, 1899, Mr. Griswold, you entered into a contract with Mr. R. M. Cobban, relative to the location of timber lands in Montana in Deer Lodge and Missoula Counties? A. I did.

Q. State what you did under that contract?

A. I worked for Mr. Cobban in selecting timber lands in both Deer Lodge and Missoula counties, and did select for him to the extent of about 145,000,000 or 150,000,000 feet of standing timber.

Q. Mr. Griswold, look over these lists and say if these are among the locations made by you or those employed by you?

A. Yes, sir, myself or men in my employ, and others beside these.

Q. Tell us the modus operandi in making these selections and locations?

A. I went on and made selections according to contract with Mr. Cobban himself, made May 22d, 1899.

Q. Mr. Griswold, among the list of selections made by you, is one for L. T. Bryan, the N. W. q. of Sec. 24, tp. 15, rge. 14; is that a man or woman? A. It is a lady.

Q. Did you locate for her?

A. No, sir, but I went on this land with her and her brother, who was here yesterday.

Q. What did you tell her to do?

A. I gave her $35.00 of the money that Mr. Cobban left in my possession for the purpose of paying expenses to Helena for making application.

Q. How much did you give her?

A. I gave her $35.00, ten dollars of which was for filing fee.

Q. What else happened about that claim?

A. The land was advertised in the "Garnett Mining News," the paper printed nearest to the land, and at the expiration of the specified time, sixty days, she went to Helena and made final proof with her witnesses.

Q. Who went with her?

A. Miss Belle Bryan, Edgar Lehman, Thomas B. Bryan, John B. Catlin and myself. I am under the impression, however, that it should be Mrs. Belle Gillis instead of Belle Bryan as she was married about that time.

Q. What happened when you got there and who bought the tickets for these people to go to Helena from here?

A. I am not sure who paid the expenses of the trip to Helena.

Q. What did you say to Miss Bryan, when you was on this land by way of inducement to her to make this entry, if any thing?

A. I told her it was a desirable piece of timber.

Q. Do you know who instructed her to make application for this land? A. Mr. Thomas Bryan.

Q. Did you have any conversation indicating what pay she would get for doing this?

A. She knew about that. It was the general talk among every one that they would get $100.00 over and above expense.

Q. What else?

A. We got into Helena in the evening and stayed at the hotel until about nine o'clock in the morning, and we went to the land office, and Miss L. T. Bryan, Bell Bryan and Edgar Lehman, made final proof. I was with them at the land office. They did not pay any money and I did not pay any money for filing. At this time Belle Bryan was married to one Gillis, but having filed under the name of Bryan it was necessary for her to complete the filing under that name.

Q. Did they get final receipts? A. I think not.

Q. Did you get them? A. No, sir.

Q. Where did they go from the land office—I mean the receipts?

A. To the best of my knowledge the final receipts was to be sent to R. M. Cobban at Missoula, Mont., by mail.

Q. Who did pay the money on this final receipt?

A. Mr. J. B. Catlin. He went there for the purpose of paying this money. As I came out of the land office he

met me on the corner and asked me if we were through with the proofs; I replied that we were; and he said to come to the hotel with him and he would get the money. He said I left it in the safe in the office of the hotel as the lock on my room door was not in very good order, and I did not feel safe in keeping it with me.

Q. Was this money paid for Mr. Cobban?

A. It was Cobban's money, I suppose so; that was my understanding.

Q. After these three persons made final proof, what became of them; did you have anything further to do with them?

A. They were not paid that day, but they came to Missoula. Miss L. T. Bryan was teaching school at Potomac, in Missoula County, Mr. Lehman was working in a sawmill at Bonner, and Belle Bryan was living with her husband at Clearwater; there was no deeds signed at that time.

Q. When were they signed?

A. Mr. Cobban came to me on my return from Helena and asked me why these people did not come and sign these deeds. I said, "I do not know," and he said he wished I would look them up and have it done; and I hitched up my team and drove to Potomac and got Miss Bryan and brought her to Mr. Cobban's office in Missoula, where she signed her deed conveying the land to Mr. Cobban, and he then gave her a check on the First Nat'l Bank of Missoula for $100.00. Mr. Lehman was working at Bonner and Mr. Cobban spoke to me about him, and I went to Bonner and Mr. Lehman refused to come; and I then

came back to Missoula and got Mr. Bryan and we went back to Mr. Lehman and induced him to come to Missoula. He came and I went with him to Mr. Cobban's office and Mr. Cobban demanded the deed, and he refused to give it as the pay of $100.00 was too small, and they had some words in regard to Mr. Lehman giving Mr. Cobban security if he did not want to transfer the land. The result was Mr. Cobban gave him $25.00 more, or $125.00 in a check, and Mr. Lehman then transferred the land to Mr. Cobban. In regard to Miss Belle Bryan, about the time this proof was made, Miss Belle Bryan was married to John Gillis, and there was some trouble about making the transfer from Mrs. Gillis, nee Bryan and her husband, but I don't remember the full circumstances.

Q. Mr. Griswold, Thos. Pelky was located on the S. W. q. of sec. 10, tp. 14, rge. 13, and B. Frank Chattin on the S. E. q. of the N. E. q. and the E. half of the S. E. q, and the N. W. q. of the S. E. q. in sec. 10, tp. 14, rge. 13, did you select this land?

A. I looked the land over and reported to Mr. Cobban that they were worth taking, and Mr. Cobban came to my place at the Clearwater, with, I believe, six men, among them these two. I had a man in my employ that was familiar with these lands and directed him to show the boundaries lines of the two claims in section 10, tp. 14, rge. 13, to the men that Mr. Cobban designated to me that he wished to have file on the land. They went and my man, Mr. Gillis, went with them, and Cobban was at my place in the Clearwater. They then came down and went

to Helena and made filing, but I do not know who went with them.

Q. When was the final proof made?

A. The final proof was made on the 15th day of Aug., 1899.

Q. Who went with them?

A. I don't know; I don't think anyone went with them.

Q. Did you see them at Helena?

A. I did, and went with them to land office and helped them make final proof, and was one of their witnesses. They did not get the final receipt and I did not get it, but I directed Mr. Green, the register, to send them to Mr. R. M. Cobban.

Q. Who paid for this land? A. I did.

Q. How did you happen to do it?

A. Mr. Cobban gave me the money to pay for this land and I directed that the final receipt be sent to him.

Q. Did they make deeds that day? A. No, sir.

Q. They did make deeds to Mr. Cobban?

A. Yes, sir.

Q. How many persons was there that day?

A. Just these two and myself.

Q. Under this contract of employment with Mr. Cobban to select lands outside of the reserve and the timber and stone and scrip lands, what did you chiefly select, which of these three classes did you devote yourself chiefly? A. To the timber and stone.

Q. In your selection of timber and stone lands to be located upon, did you work yourself and did you have others employed to help you?

A. I had others employed; I had Albert Jemison, the man who testified yesterday, and E. R. Kilburn.

Q. Where is Kilburn now?

A. To the best of my knowledge he is on Piat river, in Southern Idaho.

Q. What is he doing there?

A. He is working in the timber for Mr. Cobban.

Q. Did you have any one else employed?

A. Yes, sir, I had M. B. Watson and John Gillis and Jamison and Kilburn were the two principal ones.

Q. What was your instructions to these men?

A. My instructions was for them to look over timber in that section of the country, section by section; I was to furnish description of township and show the vacant lands, and whenever they found quarter sections of desirable timber land they were to report to me and I would furnish report to Mr. Cobban and Mr. Cobban would then send parties there to file on the land or locate the land, or parties from up in that country would take it up there.

Q. When you, yourself, sent parties on land for purpose of filing, either direct or through either of these agents, what was your understanding with them?

A. The understanding was that they were to file and make final proof and Mr. Cobban would pay the expense incurred in going to file and making final proof and was to pay them in addition $100.00.

Q. Did he ever pay more?

A. I think he did, in one or two instances; usually, however, $100.00, but on some occasions more.

Q. This is true of all the persons whose names appear in the deposition there, together with the description of land set opposite their names?

A. Yes, sir, to the best of my knowledge.

Q. Did you ever make any agreement with any person that Mr. Cobban would take that land at that price?

A. I never did, the understanding was that Mr. Cobban was to take the land. This was Mr. Cobban's instructions to me.

Q. Do you know Mr. J. B. Catlin?

A. Yes, sir; I do, well.

Q. Was he associated with or employed by Mr. Cobban?

A. He was associated with him, but I do not know whether he was a partner in the business or not; I know he was associated with him in these matters.

Q. Did Mr. Catlin usually meet the persons who came to Missoula and take them to the land office to make filing and proof?

A. He did usually; he paid the money. Mr. Catlin kept a lot of timber and stone entry blanks and would go into Mr. Cobban's office and prepare papers for filing.

Q. Were you ever with Mr. Catlin at the land office in Missoula when persons were making final proof?

A. I don't think I was.

Q. How long have you known Mr. Catlin?

A. I have known him since 1894, I think.

Q. What is his occupation now?

A. He is dealing in real estate.

Q. Do you know whether or not he is a man of means?

A. He is not.

Q. Do you know whether or not he is related to Mr. Hershey, register of the land office here?

A. Mr. Catlin told me his daughter married Mr. Hershey.

Q. Did you understand, in the course of your business with Cobban, that the officers here were cognizant in the matters of these land entries?

A. Yes, sir; I understand that they were; I am pretty well satisfied in my own mind that they did know, as Mr. Hershey was Mr. Cobban's legal adviser in most cases.

Q. Did you ever appear as a witness in final proof in any of these cases?

A. Yes, sir.

Q. What transpired at those times?

A. We would just go in and final proof would be made and nothing said as to payment or as to the delivery of receipt, and no money paid in my presence, and the parties would then leave the land office and go to Cobban's office and get their pay and no questions asked by the register or receiver when I was present. The matter went along as a preconcerted affair, nothing being said one way or the other.

Q. Mr. Griswold, the whole purpose of Mr. Cobban, through his associates, employees, and himself, was to procure people to enter and make filing and final proof in this timber and stone claims so that the title of the land might be immediately conveyed to him?

A. Yes, sir, he would take waranty deed upon the receipt of receiver's receipt.

Q. Whenever he received final receipt from receiver and before any money was paid to anybody or to the Government a waranty was made to him?

A. Yes, sir, he did not wait for a patent to come, but treated the final receipt as a patent and warranty deed was made immediately.

Q. Do you know what Cobban did with this land?

A. I know what he told me he did with it. He told me he transferred them to Senator W. A. Clark of Butte, telling me at the same time that he had an understanding with Mr. Clark before going into this business.

Q. All of them?

A. He gave me to understand that all that was in Missoula and Helena District.

[Endorsed]: Griswold Evidence. Before Zevely, Star Chamber. Defts. Exhibit 348. H. N. Blake, Examiner. Filed and entered Aug. 28th, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Defendant's Exhibit "E."

State of Montana, } ss.
County of Missoula. }

C. L. Griswold, being first duly sworn according to law, on his oath deposes and says: That he is the plaintiff in an action now pending in the District Court of Missoula County, Montana, in which Robert M. Cobban is defend-

ant; that during the years 1899 and 1900 affiant was employed by said defendant, and during said employment defendant became indebted to affiant in the sum of several thousand dollars, and in the settlement which occurred in December, 1900, affiant felt aggrieved at not being allowed all that he believed himself entitled to from defendant, and subsequently brought said action to force defendant to make the settlement affiant believed to be due him.

Affiant further states that in truth, and in fact affiant has no knowledge of any acts done or authorized by said Robert M. Cobban in the procurement of title to lands taken by parties under the Timber and Stone Act of Congress which were in violation of said acts or in violation of any law of the United States relative to the acquiring of title to lands, and that the instructions of said Cobban to this affiant while in his employ were always to the effect that no contracts for the purchase of timber and stone claims should in any case be made prior to final proof thereon in the United States land office.

C. L. GRISWOLD.

Subscribed and sworn to before me this 12th day of June, A. D. 1901.

[Seal] HENRY C. STIFF,

Notary Public in and for Missoula County, State of Montana.

[Endorsed]: No. 491. Affidavit. Defts. Exhibit "E." Henry N. Blake, Examiner. Filed and entered Aug. 28, 1902. Geo. W. Sproule, Clerk. By F. H. Drake, Deputy.

Clerk's Certificate to Transcript.

United States of America, }
District of Montana. } ss.

I, George W. Sproule, Clerk of the United States Circuit Court for the District of Montana, do hereby certify and return to the Honorable, the United States Circuit Court of Appeals for the Ninth Circuit, that the foregoing thirteen volumes numbered 1 to 13, inclusive, as follows:

Volume 1, page 1 to 632, Pleadings and Exhibits of Complainant.

Volume 2, page 1 to 412, Exhibits of Defendant.

Volume 3, page 1 to 582, Testimony

Volume 4, page 1 to 555, Testimony,

Volume 5, page 1 to 590, Testimony,

Volume 6, page 1 to 569, Testimony,

Volume 7, page 1 to 630, Testimony,

Volume 8, page 1 to 636, Testimony,

Volume 9, page 1 to 669, Testimony,

Volume 10, page 1 to 669, Testimony,

Volume 11, page 1 to 615, Testimony,

Volume 12, page 1 to 409, Testimony,

Volume 13, page 1 to 460, Testimony and Appeal Papers,

—is a true and correct transcript of the pleadings, process, testimony, exhibits, final decree, and all proceedings had in said cause, and of the whole thereof, as appears from the original records and files of said Court in my possession. And I do further certify and return that I have

annexed to said transcript and included within said paging the original citation in said cause.

I further certify that the costs of the transcript of record amounts to three thousand and one 50/100 dollars ($3,001.50), and has been made a charge against the Government of the United States.

In witness whereof I have hereunto set my hand and affixed the seal of the said United States Circuit Court for the District of Montana, at Helena, Montana, this 31st day of March, A. D. 1904.

[Seal] GEO. W. SPROULE,
Clerk.

[Endorsed]: No. 1070. United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Appellant, vs. William A. Clark, Appellee. Transcript of Record. Upon Appeal from the United States Circuit Court for the District of Montana.

Filed April 11, 1904.

F. D. MONCKTON,
Clerk.